



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT, MNDC, O, RP

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord. With respect to each of the applicant's claims I find as follows:

Background and Evidence

On July 17, 2013 the landlord obtained an Order for Possession and a monetary order in the sum of \$5500 by Direct Request. The tenant disputes this order and takes the position that it was obtained without proper Notice to her. Her application for review of the Order was dismissed. The tenant states that she intends to file an application for judicial review.

The materials filed by the tenant indicate that some of her claims relate to matters that are connected with the Direct Request hearing. In particular the tenant seeks to recover her deposit and a monetary order. A order for the return of the deposit cannot be made if the landlord holds an outstanding monetary order against the tenant. Other claims are unrelated to the monetary order obtained by the landlord. The tenant seeks an order for

the return of personal property (in particular a grand piano) and a monetary order. There is also an allegation in the materials that the arrangement between the parties is a rent to own and not a tenancy. If that is the case the Residential Tenancy Branch may not have jurisdiction. The landlord also submitted evidence to the Victoria office which was submitted late and it has not reached my file as yet.

I determined that it was not appropriate to hear the tenant's claim at this time. I determined that her intended application for judicial review should be heard by the Supreme Court of British Columbia first. The parties agreed that I should make an order at this time dismissing the tenant's claim with liberty to re-apply.

With the consent of the parties I ordered that the claim of the tenant be dismissed with liberty to reapply. I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Residential Tenancy Act.

Dated: December 13, 2013

Residential Tenancy Branch

