



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding The City of Vancouver and COHO Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes O

Although the tenant's application for dispute resolution did not set out the nature of her application with any particularity she explained at the beginning of the hearing that her application was for an order that the rent paid for units classified as affordable housing in this complex, including any amount paid for utility bills, be capped at 30% of a tenant's gross income. In her written submission the tenant argues that the current policy of the landlord, including the terms of her tenancy agreement, is contrary to the Vancouver Charter.

It is common ground that the landlord and the tenant have a written tenancy agreement that specifies that this is month-to-month tenancy; that the monthly rent is \$700.00 payable on the first day of the month; and that water, electricity and heat are not included in the rent.

The written submissions of both parties refer to the Shelter Aid for Elderly Renters (SAFER) Program. The landlord's submission is that this program aims to reimburse part of the difference between 30% for a renter's total income and their rent. The tenant's written submission is that for reasons set out in the submission, she thinks the SAFER program is not a solution for her.

The Residential Tenancy Branch has been created by statute, the *Residential Tenancy Act*, and can only resolve disputes that are within the jurisdiction created by that statute.

Section 2 of the *Residential Tenancy Act* states that it applies to tenancy agreements, rental units and other residential property.

"Tenancy agreement" is defined as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy.

"Rental unit" is defined as living accommodation rented or intended to be rented to a tenant.

“Residential property” is defined as:

- a building, part of a building or a related group of buildings, in which one or more rental units are located;
- the parcel or parcels on which the building, related group of buildings or common areas are located;
- the rental unit and common areas; and,
- any other structure located on the parcel or parcels.

Nothing in the *Act* gives an arbitrator jurisdiction over the operation of any rent subsidy programs that may be offered by a landlord or any other entity, including the issue of whether a rental subsidy should be paid to a tenant or tenants. Accordingly, the tenant’s claim for overpayment of rent, security deposit and utility payments is dismissed because the Residential Tenancy Branch does not have jurisdiction over this part of the dispute.

Before the hearing the tenant served and filed a letter wherein she purported to amend her Application for Dispute Resolution by claiming damages for harassment and emotional suffering as a result of the landlord’s conduct. Although the manner in which the tenant amended her claim was very informal the *Residential Tenancy Branch Rules of Procedure* are not very explicit on this topic. Accordingly, I allowed the tenant’s amendment.

The Residential Tenancy Branch does have jurisdiction over the conduct of the parties to a tenancy agreement. However, not only is this part of the tenant’s claim unrelated to the substance of the other part of her claim, it is also premature. Rule 2.3 allows an arbitrator, who determines that it is appropriate to do so, to dismiss unrelated application contained in a single application with or without leave to reapply. Accordingly, I dismiss the tenant’s claim for damages with leave to reapply.

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: January 20, 2014

Residential Tenancy Branch

