



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding Community Builders Foundation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OPT

This is an application filed by the tenant for a monetary order for money owed or compensation for damage or loss and an order of possession for the rental unit.

Both parties attended the hearing by conference call and gave testimony. The landlord confirmed that no documentary evidence was filed. The tenant stated that the landlord was served with a late evidence package on 2 occasions. The first on January 5, 2015 in person to the building manager, Nada. The landlord disputes that no evidence has been received from the tenant. The tenant also states that the late evidence was also served upon another agent of the landlord, Karen on January 7, 2014 in person at the rental property. The landlord stated again that no evidence has been received from the tenant. The tenant had a witness, B.P. attend who confirmed in his testimony that he was present when the landlord's agent, Karen was served on January 7, 2014 with the package. I accept the evidence provided by both parties and find on a balance of probabilities that the tenant has established that the landlord was served with the tenant's late evidence in person on January 7, 2014.

The landlord has requested that the tenant's application be dismissed for a lack of jurisdiction by the Residential Tenancy Branch. The landlord states that they are a Transition Housing Society under Section 4 of the Residential Tenancy Act. The tenant disputes this stating that the landlord is not a transitional housing society and refers to the 22 page document late evidence submitted by the tenant. The tenant states that the 22 page list is a current 2014/2015 listing of Transitional Housing in British Columbia provided to him by a local elected official. The tenant states that Community Builders Foundation is not listed. A review of the list shows no mention of the landlord. I find that based upon the direct testimony and the tenant's documentary evidence that the landlord's claim that there is no jurisdiction as the landlord is a Transitional Housing Society is denied. The landlord has provided no supporting evidence to show that Community Builders Foundation is a Transitional Housing Society as defined under Section 4 of the Act. As such, the hearing shall proceed.

During the hearing, both parties confirmed that the tenant's monetary claim was for compensation for rental unit #204 at the same rental property and not #210 for which the application was filed. As such, the tenant's monetary claim is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable time period.

The hearing proceeded on the tenant's request for an order of possession of the rental unit after being evicted.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed that the landlord shall provide alternative rental housing in a building with an elevator.

The above particulars comprise full and final settlement of all aspects of the dispute arising from this application for both parties.

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 13, 2015

Residential Tenancy Branch

