



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER NATIVE HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for unpaid rent pursuant to section 55; a monetary order for unpaid rent pursuant to section 67; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend. However, an agent attended on his behalf testifying that the tenant had received the landlord's Application for Dispute Resolution but was unable to attend this hearing. Three representatives for the landlord attended and they were given full opportunity to be heard.

Preliminary Matter: Tenants' Adjournment Application

This hearing was convened as a result of an application by the landlord for an Order of Possession and a Monetary Order for Unpaid Rent. On attending the hearing, the tenant's agent sought to adjourn the hearing. The application to adjourn was based on the tenant's inability to attend this hearing. The tenant's agent testified that the tenant had recently secured a job and, despite attempts to do so, was not able to get time from work to attend this hearing. Furthermore, the tenant's agent testified that the tenant is unfamiliar with the Residential Tenancy Dispute Resolution process and that he has contacted organizations to secure an advocate to represent him in this matter.

Rule 6 of the Dispute Resolution Rules of Procedure states that the "Residential Tenancy Branch will reschedule a dispute resolution proceeding if written consent from both the applicant and the respondent is received by the Residential Tenancy Branch before noon at least 3 business days before the scheduled date for the dispute resolution hearing". In this case, the tenant's agent provided sworn testimony that the tenant had made efforts to get time off work but was unable to do so. Despite not

submitting an adjournment application prior to the hearing, the tenant sent an agent to represent his interests and seek an adjournment at the hearing itself.

Residential Tenancy Branch Rules of Procedure (“the Rules”) Rule 6.3 states that, “[a]t any time after the dispute resolution proceeding commences, the arbitrator may adjourn the dispute resolution proceeding to a later time at the request of any party or on the arbitrator’s own initiative.”

The criteria provided for granting an adjournment, under Rule 6.4 of the Rules of Procedure are;

- whether the purpose for which the adjournment is sought will contribute to the resolution of the matter in accordance with the objectives set out in Rule 1...
- whether the adjournment is required to provide a fair opportunity for a party to be heard, including whether the party had sufficient notice of the dispute resolution hearing...
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and
- the possible prejudice to each party.

The landlord acknowledged that the purpose of the Dispute Resolution Hearing in this matter and the principles of the dispute resolution process would be better served to have the tenant in attendance for the hearing with respect to his application for an Order of Possession and Monetary Order. There is no question that the adjournment will allow an opportunity for the tenant to be heard and the landlord testified that he believes the hearing will be more effective if the tenant was able to be present. The consent to the adjournment by the landlord confirms that, in this instance the value of the attendance of the tenant outweighs any potential prejudice in delaying the hearing.

Rule 6.5 of the Rules provides that

The arbitrator may, in granting an adjournment, make it mandatory for the parties to attend on the date when the dispute resolution proceeding will be reconvened. If a party does not attend the reconvened dispute resolution proceeding at the scheduled time, the arbitrator may commence or continue the dispute resolution proceeding and may conclude the dispute resolution proceeding and make a decision or order in that party’s absence.

Based on the landlord’s consent and the submissions by the agent to the tenant, the request for an adjournment was granted. The hearing was adjourned. Given the

consent and accommodation of the landlord as well as the nature of this application, I order that it is mandatory that the tenant attend the reconvened (next) hearing.

Conclusion

I Order that a reconvened hearing be scheduled. **Notices of hearing are included with this Interim Decision for the Landlord to serve to the Tenant within 3 days of receipt of this Interim Decision.**

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the reconvened hearing. For more information see our website at:

www.gov.bc.ca/landlordtenant/

If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Elsewhere in BC: 1-800-665-8779

The landlord is also ordered to provide the Branch with copies of all documentary evidence on which the landlord intends to rely. For their part, the tenants should supply their evidence to the landlord and to the Branch in accordance with Rule 4 of the Branch Rules of Procedure.

This Interim 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*.

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Dated: May 11, 2015

Residential Tenancy Branch

