



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes MNDC OLC O FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on May 27, 2015 seeking to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; an Order to have the Respondent comply with the Act, regulation, or tenancy agreement; for other reasons; and to recover the cost of the filing fee from the Respondents for this application.

In the details of dispute the Applicant wrote as follows:

Request jurisdiction. Compensation for loss of quite enjoyment.

[Reproduced as written]

I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The hearing was conducted via teleconference and was attended by one of the Applicants, D.P., the named Respondent, the Respondent's Agent/Translator, the Respondent's legal counsel (hereinafter referred to as Counsel), and two observers as listed on the front page of this decision. Each person gave affirmed testimony, excluding the observers.

On a technical note the Respondent and Agent were experiencing problems with their telephone line from the onset of the hearing. They attempted to place their telephone on and off speaker phone and were disconnected. The Respondent and Agent called back into the teleconference and the hearing proceeded at 9:12 a.m.

D.P. affirmed that she was representing the second Applicant A.B. in his absence. Therefore, for the remainder of this decision, terms or references to the Applicants importing the singular shall include the plural and vice versa, except where the context indicates otherwise.

When reviewing service of documents the Respondent's Agent/Translator testified that she had issued and served the Applicants with a 2 Month Notice, as General Manager of the Hotel where the suite in dispute is located. It was also clarified that the named Respondent to this dispute was the new Owner of the subject Hotel. Evidence on behalf of the named Respondent was primarily submitted by the Agent/Translator. Therefore, for the remainder of this decision, terms or references to the Respondent importing the

plural shall include the singular and vice versa, except where the context indicates otherwise.

Counsel submitted that he had only received page 1 of 2 of the Tenant's Application for Dispute Resolution from his client. The Agent affirmed that she had scanned the documents received at their front desk and sent them electronically to Counsel. During this hearing the Agent stated that she was looking at a copy of the documents on her computer and then stated she was looking at copies she had printed off of her computer. The Agent changed her testimony a third time saying she was looking at the original documents that had been delivered to their front desk by the Applicant. Upon further clarification the Agent confirmed that she did not do a double sided scan of the documents.

The Applicant testified that she received two packages of documents from the Residential Tenancy Branch (RTB), one to be served upon the Respondent and the other one was for her records. She argued that she personally handed her application and hearing documents directly to the Respondent; she did not leave them at the Hotel front desk.

I accept the Applicant's testimony that she personally served the Respondent with copies of her application and hearing documents with the documents issued by the RTB. The RTB prepares the hearing packages which includes a 2 page Tenant's Application for Dispute Resolution printed on both sides of one piece of paper. Therefore, I find the Respondent was sufficiently served with the Tenant's application as required by section 89 of the Act.

Counsel confirmed that they had submitted evidence regarding the issue of jurisdiction. Counsel confirmed that his client was prepared to proceed with their hearing to present their arguments on jurisdiction; however, as they did not know the full particulars of the application, they could not respond to anything else.

Based on the above, I informed the parties that this hearing would proceed to hear their submissions on jurisdiction. If I determine the *Residential Tenancy Act (the Act)* applies then the matter will be adjourned and reconvened at a future date to hear submissions relating to the remaining issues listed on the Application for Dispute Resolution.

The Applicant confirmed that she had not served documentary evidence upon the Respondent in support of their application. The Applicant initially stated that she had not received documentary evidence from the Respondent, and after further clarification she confirmed that the second Applicant, A.B. signed receipt of the Respondent's evidence on July 2, 2015.

A detailed review was conducted of the documents received by the Applicants. The Applicant confirmed the title and number of pages of each document that they had been served. The Applicant confirmed that she had received the exact same documents from

the Respondent and/or his Agent that had be served upon the Residential Tenancy Branch (RTB), except for the July 2, 2015 cover letter that had been included in the evidence submitted to the RTB.

Background and Evidence

The teleconference hearing commenced at 9:00 a.m. on July 10, 2015 and continued for 82 minutes. During this hearing session each person was given the opportunity to be fully heard, provide their evidence orally and respond to each other's testimony regarding jurisdiction.

Upon completion of each party's submissions, I advised that additional documents were required to be submitted to the RTB prior to me making a ruling on jurisdiction. Oral Orders were given to each party instructing which documents to submit into evidence and serve to the other party. However, the Applicant continued to have difficulty in repeating which documents were to be served. Therefore, I advised both parties that I would be issuing this Interim Decision with clear instructions on which documents were required to be served and how this matter would proceed.

Analysis

62(3) of the Act stipulates that the director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

Each party completed their submissions pertaining to jurisdiction during the July 10, 2015 hearing session. Each party was issued oral Orders as follows:

- A) The Applicants were Ordered to serve the **Respondent's Agent Ms. D** and the **RTB** with the following:
- 1) Copies of all Payment Receipts relating to occupation of Room # 417;
 - 2) Copies of all written correspondence or letters issued to the Applicant from the Hotel during their occupation of Room # 417; and
 - 3) Page 2 of the Tenant's Application for Dispute Resolution which lists the "Nature of Dispute".

The above documents are to be grouped together with a piece of paper that states **ATTN: Arbitrator and File #**

- B) The Respondent was Ordered to serve **each Applicant** and the **RTB** the following:
- 1) Copies of the December 1, 2014 Letter and the December 20, 2012 Letter which were read into evidence during the July 10, 2015 hearing session.

The above documents are to be grouped together with a piece of paper that states **ATTN: Arbitrator and File #**

The Above documents must be served to the RTB and the other party no later than **July 24, 2015**.

Conclusion

The July 10, 2015 hearing has been adjourned pending receipt of the above ordered documents. Only the documents ordered to be submitted, as listed above, that are received on or before **July 24, 2015** will be considered in my Decision relating to jurisdiction of this matter.

The above ordered documents may be submitted to the Residential Tenancy Branch by facsimile or by hand delivering them to either the Service BC office in Victoria or the RTB office in Burnaby as follows:

- 1) Victoria RTB Facsimile: **250-356-7296**
- 2) Service BC
403 - 771 Vernon Ave
Victoria, BC V8W 9R5
- 3) RTB
400-5021 Kingsway
Burnaby, BC V5H 4A5
Facsimile: 604-660-2363

Upon review of the oral and documentary evidence if jurisdiction is declined, a final Decision will be issued to all parties. If jurisdiction is accepted under the *Residential Tenancy Act (the Act)* another Interim Decision will be issued and the matter will be reconvened to determine the remaining issues outlined on the Application for Dispute Resolution.

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: July 13, 2015

Residential Tenancy Branch

