



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PW COMOX DEVELOPMENT LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions.

Preliminary Issue: Evidence for Hearing

The tenant has applied to cancel a 10 Day Notice to End Tenancy. The 10 Day Notice to End Tenancy that she supplied as evidence is dated May 9, 2016. The landlord provided undisputed sworn testimony that there has been a previous decision with respect to the 10 Day Notice to End Tenancy dated May 9, 2016.

The landlord provided undisputed sworn testimony that she served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent dated July 15, 2016. Neither the tenant nor the landlord supplied a copy of the 10 Day Notice as evidence for this hearing.

Pursuant to paragraph 59(2)(b), an application of dispute resolution must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. The purpose of the provision is to provide the responding party with enough information to know the applicant's case so that the respondent might defend him or herself.

I find that the tenant did not sufficiently set out the details of her dispute sufficiently. Further, I note that when a tenant applies to cancel a notice to end tenancy, the burden shifts to the landlord to justify a notice to end to the tenancy. In this case, the landlord did not submit documentary evidence in response to the tenant's application. The

landlord testified that her failure to respond was based on a lack of understanding of the case for her to meet. To ensure fairness during dispute resolution hearings, the ability of the respondent to know the case against them is a primary consideration in whether to proceed to hearing.

In this case, I find that the tenant has not provided sufficient evidence with respect to this matter and that the landlord was not fully informed to ensure her ability to respond in a meaningful way to this application. Therefore, the tenant's application to cancel the notice to end tenancy is dismissed.

Conclusion

The tenants' application is dismissed in its entirety.

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: September 19, 2016

Residential Tenancy Branch