



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MANAGEMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes LRE, OLC

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution filed August 15, 2016 wherein the Tenant sought to restrict the Landlord's right to enter the rental unit pursuant to sections 29 and 70 of the *Residential Tenancy Act* as well as for an Order pursuant to section 62(3) that the Landlord comply with the *Residential Tenancy Act*, the Regulations, or the tenancy agreement.

Both parties appeared at the hearing and were given an opportunity to be heard, to present their affirmed testimony, to present their evidence orally and in written and documentary form, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

Preliminary Matter

The material filed by the Tenant in support of his application relate to issues which are outside the jurisdiction of the Residential Tenancy Branch.

Rules 2.2 and 6.2 of the *Residential Tenancy Branch Rules of Procedure* provides as follows:

2.2 Identifying issues on the Application for Dispute Resolution

The claim is limited to what is stated in the application.

See also Rule 6.2 [*What will be considered at a dispute resolution hearing*].

6.2 What will be considered at a dispute resolution hearing

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.

The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [*Related issues*]. For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.

The material filed in support of the Tenant's Application for Dispute Resolution, as well as the representations made by the Tenant at the hearing indicate that the Tenant seeks relief associated with his allegations that the Landlord libelled and slandered him and misled the Arbitrator on March 8, 2016 by giving false evidence.

The Tenant was advised that such matters are not within the jurisdiction of the Residential Tenancy Branch as the B.C. Supreme Court has jurisdiction over claims of libel or slander and allegations of perjury are criminal in nature.

Further, and while it was clear the Tenant made considerable effort to present his evidence in an organized manner, this evidence was voluminous (occupying a binder with approximately 20 tabs) and appeared to relate primarily to the Tenant's allegations of libel, slander and perjury.

Residential Tenancy Branch Rules of Procedure Rules 3.6 and 3.7 deal with evidence and read as follows:

3.6 Evidence must be relevant

All evidence must be relevant to the claim(s) being made in the Application(s) for Dispute Resolution.

The arbitrator has the discretion to decide whether evidence is or is not relevant to the issues identified on the application and may decline to hear evidence that they determine is not relevant.

3.7 Evidence must be organized, clear and legible

All documents to be relied on as evidence must be clear and legible.
Documents must be legible copies, not photographs of printed material.

To ensure a fair, efficient and effective process, an identical package of documents and photographs, which are identified in the same manner and are placed in the same order, must be served on each respondent and submitted to the Residential Tenancy Branch directly or through a Service BC office.

To ensure fairness and efficiency, the arbitrator has the discretion to not consider evidence if the arbitrator determines it is not readily identifiable, organized, clear and legible.

It is my determination that while organized to some extent, the material submitted by the Tenant in support of his application is not readily identifiable as relevant to the Tenant's claims for orders pursuant to sections 29, 62(3) and 70. Accordingly I dismiss the Tenant's application for this relief with leave to reapply. The Tenant is cautioned to resubmit his evidence in a manner which clearly shows the material to be relevant to issues within the jurisdiction of the *Residential Tenancy Act* should he reapply for dispute resolution.

Although I have dismissed the Tenant's claim, I wish to note the following. By letter dated September 8, 2016, the Tenant requested that a summons be issued to a police officer to attend the hearing and to provide evidence in support of the Tenant's claim that the Landlord gave false testimony at the March 6, 2016 hearing.

Residential Tenancy Branch Rule 5.3 provides as follows:

5.3 Application for a summons

On the written request of a party or on the director's own initiative, the director may issue a summons. A summons is only issued in cases where the evidence is necessary, appropriate and relevant. A summons will not be issued if a witness agrees to attend or agrees to provide the requested evidence.

A request to issue a summons must be submitted, in writing, to the Residential Tenancy Branch directly or through a Service BC office, and must:

- state the name and address of the witness;
- provide the reason the witness is required to attend and give evidence;
- describe efforts made to have the witness attend the hearing;
- describe the documents or other things, if any, which are required for the hearing; and
- provide the reason why such documents or other things are relevant.

I decline the Tenant's request for a summons as the evidence he intends to introduce through the police officer's testimony appears to relate to his claim that the Landlord committed perjury, and is therefore not relevant to issues within the jurisdiction of the *Residential Tenancy Act*.

Additionally, and as discussed during the hearing, the agents appearing on behalf of the named Landlord on the Application confirmed that they are employed by a management company, not the Landlord named on the residential tenancy agreement. The Tenant is cautioned to name the appropriate landlord on any further applications to the Branch.

Conclusion

The issues raised in the Tenant's Application for Dispute Resolution primarily relate to matters which are outside the jurisdiction of the *Residential Tenancy Act*. Further, the materials filed in support of the Tenant's Application, while organized to some extent, are not readily identifiable as relevant to the Tenant's claims for orders pursuant to sections 29, 62(3) and 70.

The Tenant's Application for orders pursuant to sections 29, 62(3) and 70 is dismissed 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: October 7, 2016

Residential Tenancy Branch

