



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

REQUEST FOR CLARIFICATION

Dispute Codes CNC, FF

Introduction

The tenant has made a Request for Clarification. She seeks clarification of page 4, sentence 3 under the Determination and Order section. She further asks whether she is legally required to provide the landlord with information about her roommates.

The hearing was held on November 3, 2016. The decision was rendered on November 9, 2016. Both parties provided the arbitrator with their e-mail address. The normal practice of the Registry would be to send a copy of the decision by e-mail within a few days after it was rendered.

Section 79 provides as follows:

Correction or clarification of decisions or orders

- 78** (1) Subject to subsection (2), the director may, with or without a hearing,
- (a) correct typographic, grammatical, arithmetic or other similar errors in his or her decision or order,
 - (b) clarify the decision or order, and
 - (c) deal with an obvious error or inadvertent omission in the decision or order.

- (1.1) The director may take the steps described in subsection (1)
- (a) on the director's own initiative, or
 - (b) at the request of a party, which request, for subsection (1) (b) and (c), must be made within 15 days after the decision or order is received

A Request for Clarification must be made within 15 days of receiving it. The Request for Clarification is not date stamped as to when it was received by the Residential Tenancy Branch. However, a search of the Audit notes indicates it was placed the arbitrator's box on January 11, 2017. The arbitrator did not receive it until January 12, 2017.

The Request for Clarification is dated December 26, 2016 and states the Tenant received the decision on December 12, 2016. It is unusual for there to be such a delay in the sending of a decision and the receipt of it.

A search of the Audit notes kept by the Branch indicates the Branch received a phone call from the Tenant on December 5, 2016 asking to clarify a specific provision on page 4 of the Decision and also requesting that the Decision be mailed to the Tenant. The information officer records that he/she could not give advice. The Audit Notes further indicate a copy of the decision was sent out to the Tenant on December 6, 2016. This raises the question as to how the tenant can state in her Request for Clarification that she did not receive the decision until December 12, 2016 when she raised a question relating to a specific paragraph a week earlier. Further, the Request is dated December 26, 2016. That is a holiday and the Residential Tenancy Branch is not open that day.

In any event I determined no Clarification is necessary. The arbitrator was asked to determine whether a Notice to End Tenancy was valid based on the grounds set out in that Notice ("The tenant has assigned or sublet the rental unit/site without the landlord's written consent."). The decision properly deals with the issue before the arbitrator. . The Request for Clarification asks whether the Tenant is legally required to provide the landlord with information about her roommates goes beyond what was requested by the Application for Dispute Resolution. It is not appropriate for an arbitrator to comment on the matters the Tenant requested in the Request for Clarification as it was not part of the original application. Further, it would result in a denial of natural justice to the other party as they have not been given a fair opportunity to respond to the request.

It is possible that while the presence of roommates may not amount to an assignment or sublet, it may result in the breach of other provisions of the tenancy agreement or a subsequent agreement between the parties. Further, It is possible that the roommates the Tenant has permitted into the rental unit may be a danger and may pose a risk to the landlord which might possibly be grounds to end the tenancy.

As a result I denied the Request for Clarification as I determined no clarification was necessary or appropriate.

As a courtesy I refer the parties to section 58(1) of the Residential Tenancy Act which provides as follows:

58 (1) Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

- (a) rights, obligations and prohibitions under this Act;
- (b) rights and obligations under the terms of a tenancy agreement that
 - (i) are required or prohibited under this Act, or
 - (ii) relate to
 - (A) the tenant's use, occupation or maintenance of the rental unit, or
 - (B) the use of common areas or services or facilities.

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, 2017

Residential Tenancy Branch