



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PHS Community Services Society
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes OLC

Introduction

This hearing dealt with 11 Applications for Dispute Resolution joined to be heard together seeking orders to have the respondent comply with the *Residential Tenancy Act (Act)*, the Residential Tenancy Regulation (Regulation), or the respective tenancy agreements.

The hearing was conducted via teleconference and was attended by the lead applicant; two additional applicants; their advocates; a friend to provide support and three agents for the respondent.

At the outset of the hearing the advocates for the applicants indicated they had some changes to the applicants. Specifically, the advocates indicated that the applicants RC and OB are no longer a party to this dispute; the correct spelling of the first name of the applicant QF, and to correct the surname of the applicant originally named AB to AS. I have amended the respective applications of each of these parties.

As a result, I note that this decision does not provide any direction or decision on the tenancy relationship between the applicant RC and the named respondent or the applicant OB and the named respondent for the rental units 202 or 204 respectively.

I noted, at the start of the hearing that in the evidence submitted by the applicants that there was at least 1 page each missing from affidavits provided by the applicants DS and TS. The respondent's agent confirmed the same pages missing in the evidence they had received from the applicants.

I allowed the applicants' advocates to serve these missed pages to the respondent and to the Residential Tenancy Branch as this was clearly an administrative error. I provided the applicants' advocate with a fax number for the Branch and the respondent provided an email address for these pages to be sent.

In reviewing the service of evidence from the applicants to the respondent, the agent for the respondent submitted that they had not received the applicants' evidence until April 25, 2017. The agent did acknowledge that the applicants served their evidence to an

address that is no longer the respondent's headquarter office and that it was received at that location on April 18, 2017, but not forwarded until the following week.

The agent for the respondent explained that while the address to which the applicants served their evidence is still managed by the respondents; staff at that location are not as diligent at opening mail as the headquarter office staff are and it sat for several days before it was forwarded to the headquarter office. The agent submitted that as a result they have only had the evidence for 8 days including weekend days that they do not work and are not yet able to respond to the Application.

The respondent acknowledged that the address for their office on the document entitled Residential Tenancy Agreement Non Profit Housing was their former address for service. They also confirmed that they have not provided a change in address to the applicants in relation to an address for service. The agent indicated that they have updated new tenancy agreements but not existing ones.

The respondent's agent requested an adjournment to allow time to prepare and serve evidence and to seek legal counsel on issues related to the claims put forth in these Applications and whether or not the Residential Tenancy Branch has jurisdiction over the tenancies that are the subject of this hearing. The agent confirmed that they have not yet sought advice from legal counsel but that they have tried to contact their counsel and they have not yet returned their call.

The applicants' advocates submitted that a delay in these proceedings would be extremely unfair to the applicants who have been trying to get some resolution to the issues put forth in these Applications for several months and to which the respondent has failed to acknowledge or respond to. The advocates also submitted that the impact of the policies that have precipitated the need for these Applications is significant to the mental and physical well-being of each of the applicants and warrants a speedy resolution.

Residential Tenancy Branch Rule of Procedure 3.1 requires the applicant to serve the respondent with their evidence within three days, if available, of their Application being accepted. For any evidence not available at the time the applicant filed their Application it must be served on the respondent as soon as possible or at least no later than 14 days prior to the hearing.

Residential Tenancy Branch Rule of Procedure 7.9 states that without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- The oral or written submissions of the parties;
- The likelihood of the adjournment resulting in a resolution;
- The degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;

- Whether the adjournment is required to provide a fair opportunity for a party to be heard; and
- The possible prejudice to each party.

At the start of the hearing, I considered the oral submissions of both parties. While I accept that the respondent's office, at the address for service, received the applicants' evidentiary package on April 18, 2017 I note that this is only 1 day late to be compliant with the requirements set forth in Rule of Procedure 3.1.

However, I find the fact that the respondent has not provided the applicants with a current service address and staff did not forward the evidence package to the their new headquarter office immediately should not impact the applicants' pursuit of these applications. Based on the oral submissions of the respondent's agent, I find the request for the adjournment arises, to a significant degree, out of neglect of the respondent to provide a current service address and delays in forwarding of their own internal mail.

I do find that allowing for an adjournment would contribute to providing an opportunity for the respondent to be heard. However, I find the prejudice to the applicants because of any unreasonable delay that has resulted in part by the neglect of the respondent would be substantial to the applicants.

For these reasons, I declined the respondent's request for a complete adjournment and proceeded to have the parties present their oral submissions and current documentary evidence. I do, however, find that it is necessary to have the respondent provide some documentary evidence that is essential to the determination of these applications and as a result I provided the parties with these following orders orally during the hearing:

- I order the respondent is allowed to submit to the Residential Tenancy Branch and serve to the applicants' advocates, no later than the end of business on May 10, 2017 documentary evidence in response to the applicants' Applications and their oral submissions made during this hearing;
- I order the applicants are allowed to submit to the Residential Tenancy Branch and serve to the respondent, no later than the end of business on May 17, 2017 documentary evidence in response to the respondent's documentary submissions noted above;
- I order each of the parties may exchange one copy of the above noted evidence by email and that such service will be deemed received by the other party immediately upon sending the email. I note the parties, during the hearing, provided specific email addresses for this service and to be used by me to send each of the parties a copy of this Interim Decision;

- I order each of the parties, once they receive the other party's evidence, to provide an email confirmation that they have received that evidence and provide a copy of that email to the Residential Tenancy Branch.

I advised the parties that once I received the above noted packages I would determine if there was a need to reconvene the parties to another participatory hearing or whether I could write a final and binding decision based on the supplementary evidence.

This Interim Decision records only submissions and considerations related to the housekeeping issues raised in regards to the applicants and the issues of evidence and request for an adjournment on the part of the respondent. I have not recorded, in this interim decision any findings of fact or law or made any orders in relation to the issues that are the subject of these joined Applications.

Issue(s) to be Decided

The issues to be decided are whether the applicants are entitled to an order requiring the responded to comply with the requirements set forth in the *Act* and Regulation, pursuant to Section 30 of the *Act* and Section 9 of the Regulation Schedule.

Conclusion

As noted above, this hearing is adjourned until the parties have provided their additional evidentiary submissions and I determine if there is a need to reconvene or a final decision is written.

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: May 02, 2017

Residential Tenancy Branch