



# Dispute Resolution Services

Page: 1

## Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING ADVISORY ASSOCIATION  
and [tenant name suppressed to protect privacy]

### **DECISION**

Dispute Codes OPR-DR, FFL

#### Introduction

On November 15, 2017, an Adjudicator appointed pursuant to the *Residential Tenancy Act* (the *Act*) issued an Interim Decision adjourning the following landlord's application for dispute resolution for the following items to a participatory hearing:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this participatory hearing, although I left the teleconference hearing connection open until 10:43 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 10:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the tenant vacated the rental unit on or about December 3, 2017. As such and as the landlord now has possession of the rental unit, she withdrew the landlord's application for an Order of Possession. The landlord's application for an Order of Possession is hereby withdrawn.

At the commencement of the hearing, the landlord testified that in addition to the unpaid rent of \$750.00 for each of October and November 2017 that the landlord identified on the original application, the landlord was also requesting unpaid rent of \$750.00 for December 2017. She said that the rental unit was damaged during this tenancy and the landlord would be unable to re-rent the premises and thus mitigate the tenant's exposure to the landlord's loss of rent for December by the end of this month. The landlord's application for a monetary award of \$1,500.00 plus recovery of the filing fee is amended to an application for unpaid rent of \$2,250.00, plus recovery of the filing fee.

#### Preliminary Issue –Service of Dispute Resolution Hearing Package

The landlord testified that she posted the dispute resolution hearing package, including the notice of this teleconference hearing, on the tenant's door on November 29, 2017.

As outlined below, section 89(1) of the *Act* establishes the Special Rules for the service of applications for dispute resolution in which a monetary award is claimed by the Applicant:

**89** (1) *An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:*

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents]...*

As discussed at the hearing, section 89(1) of the *Act* does not permit dispute resolution hearing packages, including Notices of Hearing for monetary awards or Interim Decisions pertaining to monetary claims, to be posted on tenant's doors.

As I am not satisfied that the tenant has been served with the Notice of Hearing for the participatory hearing of the landlord's application for a monetary award, I dismiss the landlord's application for a monetary award with leave to reapply.

### Conclusion

The landlord's application for an Order of Possession is withdrawn.

The landlord's application for a monetary award 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: December 11, 2017

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Residential Tenancy Branch