



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC; MT, CNC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 55.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause, dated June 6, 2018 ("1 Month Notice"), pursuant to section 66; and
- cancellation of the landlord's 1 Month Notice, pursuant to section 47.

The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Inappropriate Behaviour of Landlord during the Hearing

This hearing began at 11:00 a.m. with me and the tenant present. The landlord's agent WZ ("landlord") called in late at 11:03 a.m. When I questioned the landlord as to why he was late, he said that it was not unreasonable for him to have called in at that time and it was not late. When I notified him that he was late, this was a serious legal proceeding and he was required to call in on time at 11:00 a.m., he continued to ignore my comments, refused to answer why he was late, asked for my name and said that we needed to "proceed." When I notified the landlord that his behaviour was not appropriate, another female agent, who worked for a health division with the landlord company, then stated that she was also on the call to assist the landlord. When I notified her that she could assist but I wanted a response to my comments, the landlord continued to speak at the same time as me and made rude comments to me.

I notified the landlord that I was the Arbitrator in control of the conference and that I could disconnect him from the call if he continued with his behaviour. The landlord then stated that he was recording the proceeding. When I informed him that he was not permitted to record the proceeding as per the Residential Tenancy Branch ("RTB") *Rules of Procedure*, he said that he

had already done so. At that time, I disconnected the landlord from the conference. The landlord would not stop his rude, disruptive and inappropriate behaviour and I could not conduct the conference with him on the line.

For the landlord's information, I have reproduced Rules 6.11 and 6.12 of the RTB *Rules of Procedure* below (my emphasis added):

6.11 Recording prohibited

Persons are prohibited from recording dispute resolution hearings, except as allowed by Rule 6.12. Prohibited recording includes any audio, photographic, video or digital recording.

6.12 Official transcript

*A party requesting an official transcript by an accredited Court Reporter must make a written request stating the reasons for the request to the other party and to the Residential Tenancy Branch directly or through a Service BC Office **not less than seven days before the hearing.***

An arbitrator will determine whether to grant the request and will provide written reasons to all parties and issue any necessary orders.

If permission is granted, the party making the request must:

- a) prior to the hearing, provide the Residential Tenancy Branch with proof of the Court Reporter's accreditation;*
- b) make all necessary arrangements for attendance by the accredited Court Reporter and their necessary equipment;*
- c) pay the cost of the accredited Court Reporter's attendance at the dispute resolution hearing;*
- d) pay the cost of the Court Reporter's services and the cost of transcripts; and*
- e) provide all parties and the Residential Tenancy Branch with official copies of the transcript.*

Also, for the landlord's information, Rule 6.10 of the RTB *Rules of Procedure* states the following (my emphasis added):

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from

the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

I caution the landlord not to engage in the same rude, hostile and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and he may be excluded from future hearings. If the landlord engages in the same behaviour in the future, a decision will be made in his absence.

Tenant's Application

When I continued the conference in the absence of the landlord, I asked the tenant about service of her application for dispute resolution to the landlord. She claimed that she served it on July 20, 2018 by XpressPost, not registered mail with a signature. She was unable to provide a tracking number to confirm service. I notified the tenant that since she did not serve the landlord in accordance with section 89 of the *Act*, which requires service by registered mail and a signature, her application was dismissed with leave to reapply. I notified her that if she wished to pursue her claims, she would have to file a new application and pay a new filing fee. I informed her that she should reapply as soon as possible and reference the date of this application when she reapplies. The tenant confirmed her understanding of same.

Conclusion

Both parties' applications are 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: September 11, 2018

Residential Tenancy Branch