



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes CNC, FFT

Introduction

This matter proceeded by way of an *ex parte* Proceeding, pursuant to section 76(1)(a) of the *Act* and Rules 5.3 and 5.4 of the *RTB Rules*. On February 28, 2019, the RTB received a request, dated February 27, 2019, from the tenant. The tenant requested that a police officer (“witness”) be summoned to testify at the upcoming hearing on March 22, 2019. The tenant provided the name of the witness and the main dispatch police address, as well as a two-page description summarizing the evidence to be expected from the witness and the purpose for which the evidence was required. The tenant requested that a full report for an incident on February 22, 2018 be brought by the witness to the hearing.

The tenant confirmed that she required a summons so that the witness could testify at this hearing regarding incidents that she witnessed in 2018 at the rental property between the tenant and other occupants. The tenant said that these incidents are the subject of conflict and a 1 Month Notice to End Tenancy for Cause (“1 Month Notice”) issued by the landlord to the tenant.

Issue to be Decided

Should the witness be summoned to testify?

Analysis

The central issue with respect to the tenant’s application is whether this tenancy will continue. The tenant has made an application to cancel the landlord’s 1 Month Notice.

The tenant stated that she spoke to the witness on February 21, 2019, but did not indicate whether she asked the witness to testify at the upcoming hearing or whether the witness refused to testify after being asked. As per RTB Rule 5.3, the tenant is required to “describe the efforts made to have the witness attend the hearing.” The

tenant failed to meet this requirement, indicating only that she left a message for the witness on February 19 and spoke to her on February 21 but did not indicate whether the witness agreed to attend the hearing.

Residential Tenancy Policy Guideline 15 states the following, in part, with respect to a summons as it relates to police officers:

*There are also cases where it may not be in the public interest to issue a summons. **For example, it may not be in the public interest to summons a police officer to attend and give evidence, and thus take them off their regular policing duties where that evidence is not vital to the case or could be put before the director by other witnesses.***

I find that as per the above Policy Guideline 15, it is not in the public interest for the witness, who is a police officer, to be summoned to attend this hearing and leave her regular policing duties in order to do so. The tenant could have asked the witness to attend of her own accord. The witness could provide a written statement regarding her interactions with the tenant and the other occupants at the rental property. The tenant also could have obtained police reports through a *Freedom of Information and Protection of Privacy Act* request, as she did not submit documentary evidence showing that she made this request, assuming only that it would take two months.

Accordingly, the tenant's request that the witness be summoned to testify is denied.

Conclusion

The tenant's request that the witness be summoned to testify is denied.

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: March 20, 2019

Residential Tenancy Branch