



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      MNDCT

### Introduction

On February 25, 2019, the Tenant made an Application for Dispute Resolution seeking a Monetary Order for compensation for being overcharged rent pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing, with E.R. appearing as an advocate for the Tenant. J.B. and L.R. attended the hearing as agents for the Landlord. All parties provided a solemn affirmation.

The Tenant advised that she served the Landlord the Notice of Hearing package by hand on March 1, 2019 and J.B. confirmed that she received this package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing package.

The Tenant advised that she served her evidence to the Landlord by registered mail on May 21, 2019 and J.B. confirmed receiving this package. Based on this undisputed testimony, as these documents were served in accordance with the time frame requirements of Rule 3.14 of the Rules of Procedure, I am satisfied that the Landlord was served with the Tenant’s evidence.

J.B. advised that an employee that is no longer employed with the company started this process and she is not sure if their evidence was served to the Tenant. The Tenant stated that she did not receive any evidence from the Landlord. Based on this undisputed testimony, as there is no proof that the Landlord’s evidence was served to the Tenant, I have excluded the Landlord’s evidence and will not consider it when rendering this decision. However, the Landlord was permitted to provide testimony with respect to this evidence.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Tenant entitled to a Monetary Order for compensation?

### Background and Evidence

Both parties agreed that the tenancy started on May 1, 2006 and the economic rent was currently established at \$1,115.00 per month, due on the first day of each month. A security deposit of \$369.50 and a pet damage deposit of \$100.00 were also paid.

E.R. submitted that the Tenant's son had moved out of the rental unit in August 2017 and the Tenant advised an agent for the Landlord verbally that he was moving out. She was instructed not to add him to the next Application for Rent Subsidy form. In December 2017, the agent for the Landlord advised the Tenant that her son would have to be added back onto the Application for Rent Subsidy form, although the Tenant did not want her son to be added back onto this application. E.R. stated that the Tenant advised the Landlord immediately of any changes in the number of occupants in the rental unit, as per the tenancy handbook, and the Tenant's rent should have been adjusted in accordance with the BC Housing Guideline. She stated that a Notice to Vacate form was filled in by the son in December 2017 and was backdated to August 2017.

J.B. agreed that the Tenant made this request and that this meeting happened between the Tenant and the Landlord's agent. She advised that their policy is that the Tenant must give written notice of any changes and no written notice was given. She stated that by removing the son from the tenancy, the Tenant would be over-housed and would have to be re-located to another rental unit. She stated that she attempted to work with the Tenant multiple times to accommodate her needs and to leave an avenue open for the son to return if necessary. She stated that their policy and the tenancy agreement state that all changes to the occupation of the rental unit must be made in writing. As

well, she acknowledged that an administrative error was made; however, this was in favour of the Tenant.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

I find it important to note that Section 2 of the *Residential Tenancy Regulations* states the following:

#### **Exemptions from the Act**

2 Rental units operated by the following are exempt from the requirements of sections 34 (2), 41, 42 and 43 of the *Act* [*assignment and subletting, rent increases*] if the rent of the units is related to the tenant's income:

- (a) the British Columbia Housing Management Commission;
- (b) the Canada Mortgage and Housing Corporation;
- (c) the City of Vancouver;
- (d) the City of Vancouver Public Housing Corporation;
- (e) Metro Vancouver Housing Corporation;
- (f) the Capital Region Housing Corporation;
- (g) any housing society or non-profit municipal housing corporation that has an agreement regarding the operation of residential property with the following:
  - (i) the government of British Columbia;
  - (ii) the British Columbia Housing Management Commission;
  - (iii) the Canada Mortgage and Housing Corporation;
  - (iv) a municipality;
  - (v) a regional district;
- (h) any housing society or non-profit municipal housing corporation that previously had an agreement regarding the operation of residential property with a person or body listed in paragraph (g), if the agreement expired and was not renewed.

The undisputed evidence before me is that the Tenant's rent is related to her income and that rental units operated by the BC Housing Management Commission are exempt from Sections 41, 42, and 43 of the *Act*. As rent is tied to the Tenant's income, in my view after hearing testimony from both parties, I find that I have no jurisdiction to render a decision in this matter.

### Conclusion

I decline to hear this matter as I have no jurisdiction to consider this application.

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: June 18, 2019

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Residential Tenancy Branch