Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OKANAGAN METIS AND ABORIGINAL HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   RPP

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "*Act*") for an order for the landlord to return the tenant's personal property pursuant to section 65.

The tenant attended the hearing, accompanied by her caseworker, ME ("tenant"). The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:50 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that she personally served the landlord's representative with the Application for Dispute Resolution Proceedings Package on September 30, 2019. I note that the landlord filed evidence in this proceeding. I am satisfied the landlord was served with the Application for Dispute Resolution Proceedings Package in accordance with section 89 of the *Act*.

Preliminary Issue

The tenant testified that at the time she filed her application, she had difficulty in choosing an issue on the online dispute resolution system that accurately reflected the nature of her dispute. The tenant testified that she is not seeking a return of personal property pursuant to section 65 of the *Residential Tenancy Act* but instead seeks to reinstate a tenancy.

Rule 2 of the Residential Tenancy Branch Rules of Procedure describe the requirements for making a claim.

2.1   Starting an Application for Dispute Resolution
To make a claim, a person must complete and submit an Application for Dispute Resolution.

2.2   Identifying issues on the Application for Dispute Resolution
The claim is limited to what is stated in the application.

The tenant's acknowledged that the nature of her application as stated in her Application for Dispute Resolution was incorrect. I determined it would be a breach the principles of natural justice to allow the tenant to amend her application without allowing the landlord the opportunity to raise an objection.

Consequently, I dismissed the tenant's application for a return of personal property without leave to reapply.

Conclusion
The tenant's application is dismissed without 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: October 21, 2019

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Residential Tenancy Branch