



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

AAT, LRE, PSF, OLC, FFT

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant, in which the Tenant applied for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* and/or the tenancy agreement, for an Order requiring the Landlord to provide access to the rental unit, for an Order requiring the Landlord to provide services or facilities, for an Order suspending or setting conditions on the Landlord's right to enter the rental unit, and to recover the fee for filing this Application for Dispute Resolution.

At the outset of the hearing the Tenant stated that she has moved out of the rental unit and, as such, she does not require any of the Orders she has applied for. The Tenant stated that she is not withdrawing her application to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on April 07, 2020 the Dispute Resolution Package was sent to the Landlord, via email. The Landlord acknowledged receipt of these documents.

In April of 2020 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was served to the Landlord, via email, on April 21, 2020. The Landlord acknowledged receiving this evidence on April 24, 2020 and it was accepted as evidence for these proceedings.

On May 18, 2020 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was served to the Tenant, via registered mail, on May 18, 2020. The Tenant acknowledged receiving this evidence on May 21, 2020 and it was accepted as evidence for these proceedings.

On May 23, 2020 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was left at the Landlord's door on May 23, 2020. As this evidence was not served in accordance with the timelines established by the Residential Tenancy Branch Rules of Procedure, it was not accepted as evidence for these proceedings. I find that it would be unfair to the Landlord to consider that evidence, as it was only recently received by the Landlord.

Preliminary Matter #1

The Landlord stated that he received video evidence from the Tenant, although he was unable to view that evidence. He stated that the Tenant never asked him if he was able to view her video evidence.

The Tenant stated that she specifically asked the Landlord if he could view her video evidence, by email, and that the Landlord did not respond to her query. The Tenant stated that she did not submit a copy of the email in which she allegedly asked the Landlord if he could view her video evidence.

Rule 3.10.5 of the Residential Tenancy Branch Rules of Procedure stipulate, in part, that the format of digital evidence must be accessible to all parties. For evidence submitted through the Online Application for Dispute Resolution. The Rule further stipulates, in part, that prior to the hearing, a party providing digital evidence to the other party must confirm that the other party has playback equipment or is otherwise able to gain access to the evidence.

I find that the Tenant has submitted insufficient evidence to corroborate her testimony that she asked the Landlord, via email, if he could view her video evidence.

As the Landlord contends that he cannot view the video evidence and there is insufficient evidence to establish that the Tenant complied with Rule 3.10.5, I decline to consider the video evidence.

Preliminary Matter #2

At the hearing the Tenant stated that she is seeking financial compensation for loss of quiet enjoyment.

The Tenant acknowledged that she did not submit a Monetary Order Worksheet in which she outlined a claim for compensation for loss of quiet enjoyment. She also

acknowledged she did not apply for financial compensation for loss of quiet enjoyment in her Application for Dispute Resolution nor did she file an Amendment to her Application for Dispute Resolution.

The Tenant stated that she outlined her claim for financial compensation in documents she submitted to the Residential Tenancy Branch on May 23, 2020 and which she left at the Landlord's door on May 23, 2020.

Rule 4.1 of the Residential Tenancy Branch Rules of Procedure permits an applicant to amend a claim by completing an Amendment to an Application for Dispute Resolution form and filing the completed Amendment to an Application for Dispute Resolution form and supporting evidence with the Residential Tenancy Branch directly or through a Service BC Office.

As the Tenant did not file an Amendment to an Application for Dispute Resolution, I find that the Tenant did not amend her Application for Dispute Resolution to include a claim for compensation for loss of quiet enjoyment of the rental unit. As the Application for Dispute Resolution has not been amended to include a claim for compensation for loss of quiet enjoyment, that claim will not be considered at these proceedings.

Although I accept that the Tenant refers to the claim for loss of quiet enjoyment in the evidence she left at the Landlord's door five days before this hearing, that evidence was not accepted as evidence for those proceedings. Even if the evidence had been accepted, I find that it would be unfair to the Landlord to consider the claim for financial compensation, as she only raised this issue five days prior to the hearing.

Issue(s) to be Decided:

Is the Tenant entitled to compensation for the fee paid to file this Application for Dispute Resolution?

Background and Evidence:

The Landlord and the Tenant agree that this tenancy began on March 01, 2020. The Tenant stated that she vacated the rental unit on April 30, 2020. The Landlord stated that she vacated the unit on May 01, 2020.

The Tenant applied for an Order requiring the Landlord to give her boyfriend access to the rental unit because she alleges the Landlord told her that he boyfriend could not

stay overnight in the unit. The Landlord stated that he told the Tenant that her boyfriend could be a guest in the rental unit, but that he could not live in the rental unit.

The Tenant applied for an Order requiring the Landlord to provide services or facilities because she alleges the Landlord turned down the heat in the rental unit and blocked her access to the internet for 7 or 8 days. The Landlord stated that the heat in the rental unit was maintained at a reasonable level and that there was a problem with his internet service provider for approximately 2 days.

The Tenant stated that the Landlord breached her right to quiet enjoyment, in part, by knocking on her door on two occasions in April of 2020 and by yelling at her from outside the unit. The Landlord stated that he knocked on the door on two occasions in an attempt to obtain unpaid rent.

The Tenant stated that the Landlord breached her right to quiet enjoyment, in part, by sending her text messages about issues related to the tenancy, including the need to pay rent and issues with the garbage. The Landlord stated that he communicated with the Tenant, by text message and letters, regarding the need to pay rent and other issues related to the tenancy.

The Tenant stated that the Landlord breached her right to quiet enjoyment, in part, when he came to the rental unit with a baseball bat, which she found to be very threatening. The Landlord stated that he came to the rental unit after hearing a male voice, at which time the Tenant informed him she was alone in the rental unit. Shortly thereafter he heard a male voice again and, fearing it was an intruder, he brought the bat with him when he went to investigate the noise the second time. He stated that when he went to the rental unit a second time the boyfriend was present and that he put the bat down on the stairs once he realized the male voice was the Tenant's guest.

The Tenant stated that when the Landlord came to her door with the bat, he was angry, and he threatened to bring six friends over to assist him. The Landlord denied this allegation.

Analysis:

I find that the when the Tenant moved out of the rental unit she essentially abandoned her application for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* and/or the tenancy agreement, for an Order requiring the Landlord to provide access to the rental unit, for an Order requiring the Landlord to provide services

or facilities, and for an Order suspending or setting conditions on the Landlord's right to enter the rental unit.

As the Tenant abandoned those applications, I find there is no need for me to determine whether she would have been entitled to any of the Orders sought by the Tenant.

As the Tenant abandoned the essential issues in dispute at these proceedings, I find that there was no need for a hearing. A hearing was conducted on May 28, 2020 prior to my reaching this conclusion.

As the Tenant abandoned the essential issues in dispute at these proceedings, I find that the Tenant is not entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion:

The Tenant abandoned all of the issues in dispute in this Application for Dispute Resolution, with the exception of her application to recover the filing fee. The application to recover the filing fee is dismissed.

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: May 29, 2020

Residential Tenancy Branch