



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MANY WAYS HOME HOUSING  
SOCIETY and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT

### Introduction

On November 25, 2020, the Applicant applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”).

The Applicant attended the hearing. J.B. and M.B. attended the hearing as agents for the Respondent. All parties in attendance provided a solemn affirmation.

The Applicant advised that the Notice of Hearing and evidence package was served to the Respondent by registered mail on or around December 3, 2020, and J.B. confirmed that the Respondent received this package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Respondent has been duly served the Notice of Hearing and evidence package. As such, I have accepted this evidence and will consider it when rendering this Decision.

J.B. advised that the Respondent’s evidence was served to the Applicant by registered mail on February 26, 2021, and the Applicant confirmed that he received this package on March 5, 2021. However, he advised that he could not submit any documentary evidence as a response as it would be too late. He was informed that he could have submitted late evidence and it would have been up to me to determine whether or not to consider any late submissions. Regardless, as the Respondent’s evidence was served to the Applicant in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I am satisfied that the Applicant has been duly served the Respondent’s evidence package. Consequently, I have accepted this evidence and will consider it when rendering this Decision.

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 Applicant entitled to a Monetary Order for compensation?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

J.B. advised that the tenancy started on December 1, 2019, that the Applicant rented one room of five on the property, and that the tenancy ended in July 2020. Rent was established at an amount of \$500.00 per month and was due on the first day of each month. A security deposit of \$250.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

He testified that the Respondent offers transitional housing, as explicitly indicated on the tenancy agreement. Thus, the *Act* does not have jurisdiction over this tenancy. He stated that this was a scattered site transitional housing unit, that the property is rented to residents, and that those residents are responsible for maintenance and repairs of the property as a means to educate them on developing skills and managing day to day life issues. Outreach workers are on-site to handle any problems and to assist the residents in fostering those skills to cope with daily living.

M.B. advised that outreach workers are on-site every day to provide support or resources to the residents, and that she herself was there throughout the workday to provide assistance. Alternately, she is on-call for emergencies outside of working hours. She submitted that there were three stages of transitional housing that were offered, depending on the severity of the barriers that each individual suffered from.

She stated that due to a personal matter that the Applicant was experiencing, he was offered alternative housing in June 2020, and he informed her that he needed time to

consider it. However, the Applicant eventually declined this offer, verbally terminated his tenancy, and moved out on or around July 2020.

The Applicant advised that he was wrongly evicted on June 25, 2020 and was given three hours to leave. He submitted that he spoke with Legal Aid and the Respondent's business practices were investigated. He claimed that the Respondent was affiliated with BC Housing and that the tenancy was not transitional housing, especially given that the residents never transitioned elsewhere.

He made many submissions with respect to a dispute over his personal relationship with another resident. He also testified to the specific health care needs of other residents, and what challenges these residents faced in managing their substance abuse issues. In addition, he made many other irrelevant submissions on different topics that were not related in any way to the issue of whether this was a transitional housing unit.

He requested that he be permitted to a subpoena of certain individuals for this hearing. He stated that a restraining order has been filed against him by one of the individuals he would like subpoenaed. However, despite this restraining order and the personal dispute he has with this person, it is his belief that this individual will state that the rental unit is not transitional housing. He advised that the other person he would like subpoenaed is a former employee of the Respondent that will attest to services not being offered to the residents.

He confirmed that he took on specific responsibilities while living in the rental unit to care for it, and he referred to this arrangement as the "program". He stated that as part of the services provided, M.B. would organize a monthly delivery of groceries from the food bank for all the residents.

J.B. refuted that the Respondent had any affiliation with BC Housing.

### 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.

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

Section 4 of the *Act* states that the *Act* does not have jurisdiction over living accommodation provided for emergency shelter or transitional housing.

While the Applicant claims that this was not transitional housing, I find it important to note that other than his testimony claiming such, he did not provide any evidence to substantiate this position. Furthermore, if it was his belief that the *Act* did have jurisdiction over this tenancy, it is not clear to me why he did not apply for an Order of Possession of the rental unit in June 2020 if he was wrongly and forcibly evicted, as alleged.

I also find it important to note that the Applicant referred to this situation as the “program”, which indicates to me that there are some services provided in exchange for housing. In addition, the Applicant acknowledged to taking ownership of specific responsibilities to care for and maintain the rental unit to ensure that the residents lived peacefully together. Finally, he testified that M.B. would conduct monthly food deliveries as a service for the residents. In my view, these factors are not generally consistent with a tenancy that would fall under the jurisdiction of the *Act*.

On the other hand, I have documentary evidence of the tenancy agreement which explicitly states that the rental agreement is a Transitional Housing Agreement. Furthermore, the Applicant has signed the agreement confirming his understanding that the *Act* is not applicable to this supportive, transitional housing agreement. In addition, the rental agreement contains many statements about program services offered, references to rules for staff and residents, and speaks of Retention Workers and Program Coordinators.

When weighing the contradictory testimony with the documentary evidence before me, I find it more likely than not that this tenancy is part of a program that is meant to help stabilize residents until they can move on to more traditional housing situations. In my view, after hearing testimony from both parties, I am satisfied that the housing situation provided to the Applicant is a transitional housing program. As Section 4(f) of the *Act* stipulates, the *Act* does not apply in situations where a person is living in accommodation that is provided for transitional housing. Consequently, I am satisfied that there is no Landlord/Tenant relationship between the parties. Therefore, the Applicant has no rights or obligations under the *Act*. Ultimately, I find that even if the

parties intended upon entering into a tenancy agreement as contemplated under Section 1 of the *Act*, the *Act* would not apply to this tenancy. As a result, I have no jurisdiction to consider this Application and render a decision in this matter.

With respect to the Applicant's request to subpoena witnesses, Rule 5.3 and 5.4 of the Rules of Procedure pertain to a request for a summons. The Rules state that:

A request to issue a summons must be submitted, in writing, to the Residential Tenancy Branch directly or through a Service BC Office, and must:

- state the name and address of the witness;
- provide the reason the witness is required to attend and give evidence;
- describe efforts made to have the witness attend the hearing;
- describe the documents or other things, if any, which are required for the hearing; and
- provide the reason why such documents or other things are relevant.

A written request for a summons should be made as soon as possible before the time and date scheduled for a dispute resolution hearing.

In circumstances where a party could not reasonably make their application before a hearing, the arbitrator will consider a request for a summons made at the hearing.

When assessing the Applicant's request, while a written request was not made by the Applicant pursuant to the Rules, he explained that he received the Respondent's evidence on March 5, 2021 and then contacted the Residential Tenancy Branch. He alleges that he was advised to make this summons request verbally at the hearing. He claimed that despite receiving the Respondent's evidence on March 5, 2021, he did not have adequate time to contact his witnesses. Regarding his one witness, he advised that he could not contact him because he was forbidden to due to the restraining order that was filed against him. With respect to the second witness, he stated that he was not able to contact her.

Based on the above, I am not satisfied that the Applicant has satisfied any grounds for explaining why he could not reasonably make this written request prior to the hearing, pursuant to the Rules. Regardless, as I have determined that the *Act* has no jurisdiction over this tenancy, this request is moot in any event.

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: March 19, 2021

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Residential Tenancy Branch