



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, LRE, OLC, FFT

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on December 5, 2020, in which he requested the following:

- an Order canceling the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities delivered November 27, 2020 (the "Notice");
- an Order restricting the Landlord's right to enter the rental unit;
- an Order that the Landlord comply with the *Residential Tenancy Act* (the "Act"), the *Residential Tenancy Regulation* (the "Regulations"), and/or the residential tenancy agreement; and,
- recovery of the filing fee.

The hearing of the Tenant's Application was scheduled for teleconference at 9:30 a.m. on March 2, 2021. The Tenant called into the hearing, as did the Landlord's representative, G.C.

### Preliminary Matters—Naming Parties

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure* (the "Rules"). *Rule 4.2* allows me to amend an Application for Dispute Resolution in circumstances where the amendment might reasonably have been anticipated. The authority to amend is also provided for in section 64(3)(c) of the *Act* which allows an Arbitrator to amend an Application for Dispute Resolution.

On the Application the Tenant named G.C., as Landlord. A review of the tenancy agreement confirms the Landlord is a corporate entity. I therefore Amend the Tenant's Application to correctly name the Landlord.

### Preliminary Matter—Related Hearings

The parties appeared before me during two hearings relating to three separate files. I have included the file numbers for those files on the unpublished cover page of this my Decision.

### December 14, 2020 Hearing

The first hearing on December 14, 2020 was scheduled as a result of a Tenant's Application for Dispute Resolution filed October 5, 2020; amongst other relief, the Tenant sought to cancel a Notice to End Tenancy for Unpaid Rent or Utilities issued on October 5, 2020. By Decision dated December 16, 2020, I dismissed the Tenant's claim and awarded the Landlord an Order of Possession pursuant to section 55 of the *Act*.

The Tenant applied for review consideration of my Decision 16, 2020 Decision and Order pursuant to section 79 of the *Act*. By Decision dated December 21, 2020, the Tenant's request was dismissed.

The Tenant then filed in the B.C. Supreme Court for Judicial Review of the December 16, 2020 Decision and Order. Although neither party provided the Court's decision on the Judicial Review, I am advised my original Decision and Order of December 16, 2020 was upheld by the B.C. Supreme Court.

On February 22, 2021, the Tenant appealed the B.C. Supreme Court ruling relating to my December 16, 2020 Decision and Order to the B.C. Court of Appeal. The Tenant stated that a hearing date has not yet been scheduled in the Court of Appeal.

### February 5, 2021 Hearing

The parties also appeared before me on February 5, 2021 on Applications which had been filed on November 13 and 25, 2020; both applications related to the October 5<sup>th</sup> 10 Day Notice; the Tenant sought to cancel the Notice, and the Landlord sought an Order of Possession and monetary compensation based on the Notice.

During the February 5, 2021 hearing, and by Decision of that same date, I declined jurisdiction pursuant to section 58(2)(c) of the *Act* as the matters were substantially linked to the Judicial Review proceedings in the Supreme Court as they related to the same Notice to End Tenancy. The hearing of the cross applications was adjourned to May 20, 2021 pending the outcome of the Judicial Review Proceedings.

### Current Hearing

The current hearing relates to a Tenant's request to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which, according to the Tenant's Application filed December 5, 2020, was posted to his rental unit door, and received November 27, 2020. The Landlord's materials filed in response to the Application suggest the Tenant was served a 2 Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Housing. Neither party submitted a copy of the relevant notice to end tenancy in evidence before me.

### Analysis and Conclusion

While I am not able to decline jurisdiction to hear this matter, as section 58 of the *Act* references the B.C. Supreme Court only, I find the Court of Appeal Proceedings to be relevant to matters before me for the following reasons.

In the event the Court of Appeal upholds my December 16, 2020 Decision, this tenancy will have ended. In that case, the Tenant's request to cancel a subsequent notice to end Tenancy (whether the notice was issued pursuant to section 46 (unpaid rent) or 49.1 (cease to qualify) of the *Act*) is moot as are the Tenant's requests relating to the Landlord's entry to the rental unit or compliance with the legislation or tenancy agreement.

If the Court of Appeal remits the matter back to the Residential Tenancy Branch, the validity of the October 5 Notice to End Tenancy will be resolved in a new hearing.

In the event the Court of Appeal quashes my Decision, the tenancy will continue at which time the current Application may be relevant. Of course, that is provided the notice to end tenancy is not the October 5, 2020 10 Day Notice to End Tenancy which is the subject of the matter which is currently before the B.C. Court of Appeal.

As noted, neither party submitted a copy of the Notice which is the subject of the dispute before me on this date. Whether this Notice relates to the October 5, 2020

Notice, the validity of which is before the B.C. Court of Appeal, or unpaid rent during the same time period, which would be substantially linked to the prior proceedings, or relates to a 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for a Subsidized Unit is not clear based on the materials before me.

The Tenant also sought an Order restricting the Landlord's right to enter the rental unit pursuant to section 29 of the *Act*. In this respect the Tenant provided the following written submissions on his Application:

"the government of british columbia gave the [Landlord] 3 million dollars to provide housing to the seniors of british columbia in [address of rental unit].this is not happening.they are running the seniors out.and using the building as staff housing for 30+. i need the government of bc at this time to step in and protect their interests and the seniors of this province."

The Tenant also sought an Order that the Landlord comply with the *Act*, the *Regulations*, and/or the tenancy agreement. In this respect the Tenant provided the following written submissions:

"i am a senior citizen in british columbia on a regular canadian pension plan.and british columbia safer program.and need to be protected by law."

*Residential Tenancy Branch Rules of Procedure Rule. 2.2* provides that a claim is limited to what is stated in the application. Section 62(4)(a) of the *Act* provides that an Arbitrator may dismiss all or part of an application for dispute resolution if there are no reasonable grounds for the application.

In this case I find the Tenant has failed to provide reasonable grounds for this application. It is not clear what notice to end tenancy the Tenant is disputing. Further, the submissions relating to the Tenant's request to restrict the Landlord's right to enter the rental unit, appear to be related to the Tenant's concerns regarding government funding to the Landlord, which is outside the scope of the *Residential Tenancy Act*, and not within my jurisdiction. Finally, the Tenant fails to provide any details as to how the Landlord is not complying with the *Act*, the *Regulations*, or the tenancy agreement.

For these reasons **I dismiss the Tenant's Application with leave to reapply.** This is without prejudice to the Tenant's right to argue he applied to dispute the Notice to End Tenancy within the required timelines. Having been unsuccessful in his claim, I dismiss his claim for recovery of the filing fee; this dismissal is without leave to reapply.

The parties are reminded that should they make further applications to the Residential Tenancy Branch, that they must comply with the *Rules* and in particular, *Rule 2.5* which reads as follows:

**2.5 Documents that must be submitted with an Application for Dispute Resolution**

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [*Consideration of new and relevant evidence*].

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.

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 02, 2021

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Residential Tenancy Branch