



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **OPR-DR, MNR-DR, FFL**

### **Introduction**

The hearing was convened as a result of the applicant's application under the *Residential Tenancy Act* (the "Act") for:

- an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent and/or Utilities dated December 7, 2021 ("10 Day Notice") pursuant to sections 46 and 55;
- a Monetary Order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for its application from the Tenant pursuant to section 72.

An agent of the applicant ("DM") and the respondent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. Two witnesses ("IW" and "SC") for the applicant also appeared when required to provide affirmed testimony.

### **Preliminary Issue – Amendment of Applicant's Name**

At the hearing, I noted that the name of the applicant was a single alphanumeric word and, therefore, the applicant name did not appear to identify a person or legal corporate entity. When I questioned whether the incorrect name of the applicant had been provided in the application for dispute resolution, DM stated the Residential Tenancy Branch ("RTB") "had done it". I then referred to a copy of the applicant's paper application submitted to the RTB on December 16, 2021 that was signed by DM. I noted that the name of the applicant stated on the application had been correctly transcribed by the RTB from the applicant's paper application into the records of the RTB. I also noted that the name of the "Landlord" stated on the application was different from the name stated as "landlord" on the 10 Day Notice.

DM stated the applicant was a company incorporated under the *Business Corporations Act*, [SBC 2002] c. 57 ("BCA"). In response, I referred to section 23 of the BCA which states:

- 23** (1) Subject to section 51.21 (1), a company must have the word "Limited", "Limitée", "Incorporated", "Incorporée" or "Corporation" or the abbreviation "Ltd.", "Ltée", "Inc." or "Corp." as part of and at the end of its name.
- (2) For all purposes, each of the words "Limited", "Limitée", "Incorporated", "Incorporée" and "Corporation" is interchangeable with its abbreviation "Ltd.", "Ltée", "Inc." and "Corp.", respectively.
- (3) If the name of a company includes its incorporation number and if the first numeral of that incorporation number is a zero,
- (a) the name may be abbreviated by removing that zero, and
  - (b) the abbreviated name is, for all purposes, interchangeable with the unabbreviated name.

As the name did not conform to this section, the applicant requested I amend the application to change the name of the applicant to disclose its proper legal name.

Rule of Procedure 4.2 of the RoP states:

#### **4.2 Amending an application at the hearing**

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I find the respondent should reasonably have anticipated that an amendment would be requested by the applicant to correct a typographical error in the name of the applicant. I allow the amendment of the applicant's name on the application for the purposes of correcting the record of the Residential Tenancy Branch. However, this amendment alone does not establish whether the applicant is entitled to make an application for dispute resolution under the Act or that I have jurisdiction to hear the application.

Preliminary Matter – Jurisdiction of the Residential Tenancy Branch to Hear Application

DM stated that the former owner of the rental unit had been declared bankrupt and that the BC Supreme Court issued an order transferring the legal interest in the rental unit to the applicant. DM did not submit a copy of the order nor did he provide any evidence that the applicant had authority to act on behalf of the owner to either serve the respondent with the 10 Day Notice or to make the application for dispute resolution.

DM and the respondent agreed there was no written tenancy agreement for the rental unit. The respondent admitted she is residing at the rental address stated on the application pursuant to an oral agreement she made with a party who is not the applicant. However, the respondent disputed DM's testimony that the applicant is the owner of the legal interest in the rental unit in which she is residing. The respondent stated she has not been provided with any official documents to verify that the legal interest in the property was transferred to the applicant by a court order or some other method of transfer.

Rules 6.6 and 7.7 of the *Residential Tenancy Branch Rules of Procedure* states:

**6.6 The standard of proof and onus of proof**

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

**7.7 Preliminary matters**

At the start of the hearing, the arbitrator will consider any preliminary matters. Preliminary matters include, but are not limited to, questions of jurisdiction, substituted service, adjournment, adding a related matter, amending the application and summoning a witness to provide evidence

Pursuant to Rule 7.7, I may determine whether I have jurisdiction to hear the application at the start of the hearing.

Section 1 of the Act sets out the definition of landlord as follows:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant occupying the rental unit, who
  - (i) is entitled to possession of the rental unit, and
  - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

Section 58(0.1) of the Act states:

**58 (0.1)** In this section, "landlord" includes a purchaser as defined in section 49 who, under section 49 (5) (c), asks a landlord to give notice to end a tenancy of a rental unit.

The applicant has not provided a copy of the court order transferring ownership of the rental unit to the applicant or any other evidence to establish, on a balance of probabilities, that the applicant is a "landlord" or that the applicant satisfies the criteria set out in section 58(0.1) of the Act. I find that the applicant has not satisfied the burden of proof to demonstrate that it has status to make an application under section 58(1) of the Act.

Based on the above, I decline jurisdiction to hear the 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: January 19, 2022

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Residential Tenancy Branch