



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Stazo Properties Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC MNDCT OLC FFT

Introduction

The tenant applied to dispute a One Month Notice to End Tenancy for Cause (the “Notice”), for an order for landlord compliance, for compensation, and for recovery of the application filing fee, pursuant to sections 47(4), 62, 67, and 72, respectively, of the *Residential Tenancy Act* (“Act”). (The tenant’s application erroneously indicated that the tenant intended to dispute a 10 Day Notice to End Tenancy for Unpaid Rent.)

Both parties attended the hearing on April 11, 2022.

Preliminary Issue 1: Severing of Unrelated Issues

Rule 2.3 of the *Rules of Procedure* states that “Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.”

In this application, the claims made under sections 62 (an order for compliance) and 67 (a claim for compensation) are unrelated to the primary issue of whether the Notice is to be cancelled. That is, whether this tenancy will continue or conclude. Those claims made under sections 62 and 67 are therefore dismissed, *with* leave to reapply. In other words, the tenant is at liberty to make another application for dispute resolution in respect of these two claims.

Preliminary Issue 2: Service of Evidence

Both the Act, the *Rules of Procedure*, and the principles of procedural fairness require that a party to a dispute serve copies of any evidence that they wish to rely on upon the opposing party.

In this case, the tenant appears to have served her evidence on the landlord. However, there were issues with the landlord's service of their evidence on the tenant. The landlord testified that they served copies of their evidence on the tenant by attaching it to the door. The tenant denied receiving this evidence. (While the landlord explained that they had a photograph of the evidence attached to the door, a copy of this photograph was not in evidence.) While I have no reason to doubt the truthfulness and credibility of either party, I am not satisfied that the tenant was successfully served with the landlord's evidence.

Equally as problematic is that none of the landlord's documentary evidence ended up within the Residential Tenancy Branch's Dispute Management System. This is the secure, web-based software platform on which arbitrators access and view electronic evidence. While I was able to view the tenant's twenty-one pieces of documentary evidence, nothing submitted by the landlord appeared. Perhaps the landlord submitted their evidence to a different file (there is a hearing on May 5, 2022), but in any event, the landlord's evidence was not before me.

As explained to the parties, it would be procedurally unfair for me to proceed with the respondent landlord's evidence not before me. For this reason, the tenant's application to dispute the Notice is dismissed, though I make no findings of fact or law that the tenancy is ended, nor do I grant any orders of possession.

Conclusion

For the reasons given, the tenant's application is dismissed, with leave to reapply.

This decision is made on delegated authority under section 9.1(1) of the Act. A party's right to review or appeal this decision is limited to an application for review pursuant to section 79 of the Act, and, by way of an application for judicial review under the *Judicial Review Procedure Act*, RSBC 1996, c. 241.

Dated: April 11, 2022

Residential Tenancy Branch