



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, OLC

Introduction

The Tenant filed an Application for Dispute Resolution on March 21, 2022 seeking a cancellation of a notice to end tenancy. The Tenant then removed this issue from their Application and amended their Application to add their dispute of a rent increase, and a plea for the Landlord's compliance with the legislation and/or tenancy agreement.

The matter proceeded by way of a hearing on July 12, 2022 pursuant to s. 74(2) of the *Residential Tenancy Act* (the "Act"). I adjourned the matter to November 8, 2022. In the hearings, I explained the process and provided each party the opportunity to ask questions.

The Applicant and the Respondent both attended the hearing, and I provided each with the opportunity to present oral testimony. The Applicant attended with an advocate.

In the hearing, both parties confirmed they received the other party's evidence. The Respondent only obtained the Notice of Dispute Resolution directly from the Residential Tenancy Branch after the adjourned hearing in July.

The Respondent presented that they are exempt from the requirements of s. 41 and 42 (rent increases) of the *Act*. They cited the *Residential Tenancy Regulation* s. 2(a) which is explicit in stating that rental units operated by their organization are exempt, in this situation where rent of the unit is related to the Tenant's income. That the rent is related to the Tenant's income is explicit in the tenancy agreement that the Respondent provided as evidence.

The Applicant presented that their only point of contact regarding matters of the rent amount was the caretaker they normally communicated with on matters concerning the rental unit. Through this hearing process, they established contact with the individual who attended on behalf of the Respondent. More recently, they contacted this individual for the immediate matter of November rent being delayed in payment.

The Respondent in the hearing presented a review of the rent amount since the start of this tenancy. They explained the rent increases over more recent years, impacted by the Applicant's family member who turned 19. They provided a copy of the provincial guideline that sets all of this out.

The Respondent in the hearing also provided their direct email and phone number to the Applicant, to enable further communication on the matter of rent amount calculated.

I find the *Residential Tenancy Regulation* is clear that the Respondent here is exempt from the provisions of the *Act* that govern rent increases. Based on this, I do not have jurisdiction to hear this piece of the Application. Having declined jurisdiction, I dismiss this piece of the Application, without leave to reapply.

On the second piece of the Application, the *Residential Tenancy Branch Rules of Procedure* permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. Rule 2.3 describes 'related issues', and Rule 6.2 provides that the Arbitrator may refuse to consider unrelated issues.

I find the matter of the Respondent's compliance with the *Act*, the *Residential Tenancy Regulation* and/or the tenancy agreement is unrelated to primary issue the Applicant brought forth, that of a rent increase. I therefore dismiss this secondary portion of the Application; however, I grant the Applicant leave to reapply should this issue continue. My understanding is that the parties established a channel of communication that was not previously not in place; I find it likely that this will alleviate the need for dispute resolution on the issues raised in this part of the Application.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: November 8, 2022

Residential Tenancy Branch