



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 110065219

In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78, as amended

Between

LOUELLA SEQUEIRA and DESMOND MULLIGAN

Applicant(s)

And

EVELYN CROWTHER

Respondent(s)

Regarding a rental unit at: 113 - 6325 METRAL DRIVE, NANIAMO, BC

Date of Hearing: November 03, 2022, by conference call.

Date of Decision: December 07, 2022

Attending:

For the Landlord: EVELYN CROWTHER, Respondent
BRIAN SNYDER, Advocate

For the Tenant: LOUELLA SEQUEIRA, Applicant
DESMOND MULLIGAN, Applicant



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DECISION

Dispute Codes MNDCT, MNETC, FFT

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Applicants under the *Residential Tenancy Act* (the Act) seeking:

- Compensation for monetary loss or other money owed;
- Compensation because the landlord ended the tenancy and has not complied with the Act or used the rental unit for the stated purpose; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call at 1:30 P.M. on November 3, 2022, and was attended by the Applicants, the Respondent, and the Respondent's advocate B.S. (the Advocate). All testimony provided was affirmed. As the Respondent acknowledged service of the Notice of Dispute Resolution Proceeding (NODRP), and stated that there are no concerns regarding the service date or method, the hearing proceeded as scheduled. As the parties acknowledged receipt of each other's documentary evidence, and raised no concerns with regards to service dates or methods, I accepted the documentary evidence before me for consideration. The parties were provided the opportunity to present their evidence orally and in written and documentary form, to call witnesses, and to make submissions at the hearing.

The parties were advised that pursuant to rule 6.10 of the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure), interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that pursuant to rule 6.11 of the Rules of Procedure, recordings of the proceedings are prohibited, except as allowable under rule 6.12, and confirmed that they were not recording the proceedings. Although I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure), I refer only to the relevant and determinative facts, evidence, and issues in this decision.

Although the parties disagreed about whether there was a tenancy agreement under the Act between them, for the following reasons I am satisfied that there was not. Rather than a tenancy agreement or lease, a house-sitting application was submitted for my review and consideration as well as copies of texts between the parties on December 10, 2019, wherein the Respondent states “I have attached a house sitting application for you”. Email correspondence between the parties titled “...House Sit Application for [rental unit address]” and a document referred to by the Respondent and Advocate as house-sitting instructions was also submitted for my review and consideration.

Further to the above, the Respondent stated that they frequently travel and offer their home up for house-sitting while they are away, and the parties agreed that the Applicants maintained a permanent residence in a community several hours away, which they continued to visit and stay at throughout the duration of their stay at the Respondent's property, and that the majority of the Respondent's possessions remained in the property, including food, furniture, and personal items, during the Applicants' stay.

Policy Guideline 27 states that the Legislation does not confer upon the Residential Tenancy Branch (the Branch) the authority to hear all disputes regarding every type of relationship between two or more parties. It also states that the Branch only has the jurisdiction conferred by the Legislation over landlords, tenants and strata corporations. Based on the above, I am not satisfied that a residential tenancy under the Act existed between the parties and I find it more likely than not that the Applicants were occupying the property for the purpose of house-sitting, rather than as tenants under a tenancy agreement with exclusive possession of the property. As a result, I decline to render a decision on the substantive claims made by the Applicants in the Application for lack of jurisdiction. The parties may wish to seek independent legal advice in relation to this matter.

This decision has been rendered more than 30 days after the close of the proceedings, and I sincerely apologize for the delay. However, section 77(2) of the Act states that the director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30-day period in subsection (1)(d). As a result, I find that neither the validity of this decision, nor my authority to render it, is affected by the fact that this decision was issued more than 30 days after the close of the proceedings.

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

Dated: December 07, 2022

A handwritten signature in black ink, appearing to read 'K. Akow', is written over a horizontal line.

K. Akow, Arbitrator
Residential Tenancy Branch



Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.gov.bc.ca/landlordtenant) has information about:

- How and when to enforce an order of possession:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to enforce a monetary order:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to have a decision or order corrected:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the correction process
- How and when to have a decision or order clarified:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the clarification process
- How and when to apply for the review of a decision:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the review process
Please Note: Legislated deadlines apply
- How and when to issue a Notice of Additional Rent Increase - Eligible Capital Expenditures:
Visit: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/during-a-tenancy/rent-increases/additional-rent-increase>

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.gov.bc.ca/landlordtenant

Residential Tenancy Branch

#RTB-136 (2014/12)

