



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

FORMAT OF HEARING DECISION

Pursuant to Division 1, Section 74(2) of the Residential Tenancy Act, SBC 2002, c. 78, as amended.

Introduction

This decision is in response to a request to conduct a hearing in a specific format. The written request was made by Chinonso Uche Nweke, the named tenant applicant in the matters raised in the Application for Dispute Resolution for File #910105225.

Issues

It must be determined if the Applicant has submitted their request for a hearing in a specific format within the required timeframes.

If the Applicant has submitted their request within the required timeframes, it must be determined if they are to be allowed to have the proceedings conducted in a specific format.

Background

The notice of hearing documents was made available for the Applicant on April 18, 2023.

The Applicant has requested a hearing to be conducted in person. This request was received by the Residential Tenancy Branch on April 25, 2023.

The Applicant submits that they are unable to attend the hearing in the format scheduled because of a physical barrier as well as a history of abusive interactions with the landlord, Jacky Chaung. As a result, the Applicant has requested the hearing be conducted in this format because it would be difficult to be on a teleconference call for 1 hour given the physical barrier and the complexities of this tenancy dispute. In support of this request, the Applicant has submitted the following documents: Request for Alternate Hearing Format (RTB-36), a medical assessment of Chinonso Uche-Nweke supporting his physical barrier, photos of the damage to laptop and shoes, 1-Month Notice to End Tenancy and falsified RTB order of possession, monetary order worksheet, correspondence, proof of e-transfer to the landlord, and a Residential Tenancy Agreement.

Based on the request from the Applicant, I contacted Jacky Chaung, the landlord respondent, and he confirmed that he will be able to attend the Burnaby office.

Analysis

Residential Tenancy Branch Rule of Procedure 6.4 allows parties to a dispute resolution proceeding to submit a request for a hearing to be conducted in a specific format that is different from the routinely used telephone conference call.

Section 74(2) of the *Act* provides the director the authority to hold a hearing:

- a) by telephone conference call;
- b) in person;
- c) in writing,
- d) by video conference or other electronic means, or
- e) by any combination of the above.

Residential Tenancy Policy Guideline 44 states the director may consider requests for a hearing in an alternate format in limited circumstances including when:

- a) there is a history of abusive interactions;
- b) a party has a medical condition that creates a barrier to participation in an oral hearing;
- c) there are physical, geographical, or language barriers for which an oral hearing would result in prejudice to one or both parties;
- d) there is evidence that both parties have legal representation; or
- e) there are a large number of applicants and/or respondents, and they do not self-identify as a lead spokesperson or agent.

Based on the submissions, I am satisfied that Chinonso Uche Nweke has established that the originally scheduled format to hear the above-noted Application for Dispute Resolution is not an appropriate format.

Decision

Based on the above I order the hearing convened to adjudicate Application for Dispute Resolution file #910105225 be conducted in person at the Burnaby branch:

Residential Tenancy Branch
Marlborough Court
400 – 5021 Kingsway
Burnaby, BC V5H 4A5

Parties are to report to the Reception Desk on July 17, 2023, at least 10 minutes before the 11:00 am start.

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: April 28, 2023

Residential Tenancy Branch