



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding 1201539 BC LTD., ACE AGENCIES PROPERTY
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNR, OLC**

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the "Act") for:

- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 46 and 55;
- An order for the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- A monetary order for damages or compensation pursuant section 67.

The tenant attended the hearing, and the landlord was represented by an administrative assistant, LK. The landlord acknowledged receipt of the tenant's Notice of Dispute Resolution Proceedings package in accordance with section 89 of the Act.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure ("Rules") and that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act.

The tenant stated he had been recording the hearing but after my warning, testified that he had stopped the recording. I confirmed twice with the parties that neither was recording the hearing, and both reassured me that they were not.

Preliminary Issue

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply. Rule of Procedure 6.2 allows an arbitrator to decline to hear or dismiss unrelated issues. At the

commencement of the hearing, I determined that the issue of whether to uphold or cancel the landlord's notice to end tenancy was the primary issue before me and that the other issues listed on the tenant's application were not related and would be dismissed with leave to reapply.

Issue(s) to be Decided

Should the landlord's notice to end tenancy be upheld or cancelled?

Background and Evidence

At the commencement of the hearing, I advised the parties that in my decision, I would refer to specific documents presented to me during testimony pursuant to rule 7.4. In accordance with rules 3.6, I exercised my authority to determine the relevance, necessity and appropriateness of each party's evidence.

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of each of the parties' respective positions have been recorded and will be addressed in this decision.

The parties agree that the rental unit is in a motel that was affected recently by floods. The tenant was given accommodation in the motel as part of his reimbursement for doing work on the motel. There was no tenancy agreement between the parties, and she thinks the verbal agreement between the owner of the motel and the tenant was \$1,000.00 per month in lieu of labour to be performed by the tenant. The landlord alleges the tenant failed to perform the labour for the 24 months preceding the issuance of the notice to end tenancy.

On January 5, 2023 the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"). The tenant filed his application to dispute the notice on January 9, 2023, within the five days as required under section 46(4) of the Act.

Copies of the Notice were provided by both the landlord and the tenant. The Notice does not display the surname of the tenant. The landlord testified that the landlord did not know the tenant's surname and only found this information out when the tenant filed his application for dispute resolution. Both copies of the Notice provided to me were very faint and did not appear to bear the signature of a landlord. The person attending the hearing on behalf of the landlord was unable to accurately discern who signed the Notice, saying that her copy was also very faint.

The tenant testified that the agreement he had with the landlord was to pay \$550.00 plus taxes for a total of \$600.00 per month to the landlord if the employment relationship were to break down. He had been living in the rental unit since August of 2019 and the landlord owes him money for the work he's done at the motel.

The tenant understood that I had earlier dismissed with leave to reapply, his application seeking compensation. During the hearing, I advised the tenant that if the nature of his claim was for wages, a delegate of the Director of the Residential Tenancy Branch may not have the jurisdiction to arbitrate that type of claim.

Analysis

The landlord's notice to end tenancy for unpaid rent was issued pursuant to section 46 of the Act.

Section 46(2) states:

A notice under this section must comply with section 52 [form and content of notice to end tenancy].

Section 52 states:

Form and content of notice to end tenancy

- 52** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
 - (b) give the address of the rental unit,
 - (c) state the effective date of the notice,
 - (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
 - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
 - (e) when given by a landlord, be in the approved form.

I have reviewed the landlord's Notice and I find it does not comply with the form and content provisions as set out in sections 46(2) and 52(a). I find the Notice does not provide the full name of the tenant and it does not appear to bear the signature of the landlord. For these reasons, I find the notice to end tenancy is defective and I do not uphold it. The notice to end tenancy is cancelled and of no further force or effect.

Conclusion

The notice to end tenancy is cancelled and of no further force or effect. This tenancy shall continue until it is ended in accordance with the Act.

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: May 05, 2023

Residential Tenancy Branch