



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding PACIFICA HOUSING ADVISORY
ASSOCIATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on January 12, 2023, wherein the Tenant sought to cancel a 1 Month Notice to End Tenancy for Cause, issued on January 4, 2023 (the "Notice").

The hearing of the Tenant's Application was scheduled for teleconference at 11:00 a.m. on May 9, 2023. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Respondent Landlord's Resident Services Coordinator, K.S.

I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that K.S. and I were the only ones who had called into this teleconference.

Preliminary Matter—Landlord's Name

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure*. *Rule 4.2* of the *Rules* allows me to amend an Application for Dispute Resolution in circumstances where the amendment might reasonably have been anticipated. The authority to amend is also provided for in section 64(3)(c) (RTA) 57(3)(c) (MHPTA) which allows an Arbitrator to amend an Application for Dispute Resolution.

On the Application the Tenant named K.S. as Landlord. A review of the tenancy agreement confirms the Landlord is a Housing Association. I therefore Amend the Tenant's Application to remove K.S. as Landlord.

Analysis and Conclusion

Rules 7.1, 7.3 and 7.4 address the requirement of a party to call into the teleconference hearing and read as follows:

7.1 Commencement of Hearing

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

As the Tenant did not call into the hearing, and K.S. appeared and was ready to proceed, **I dismiss the Tenant's claim without leave to reapply.**

Section 55 of the *Residential Tenancy Act* provides as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have reviewed the Notice and find that it does not comply with section 52 of the *Act* as it is not signed. K.S. confirmed that the copy he had was also not signed. As the Notice is ineffective, I am not able to grant the Landlord an Order of Possession pursuant to section 55.

I have made no findings with respect to the reasons set forth in the Notice; as such the Landlord may reissue another 1 Month Notice to End Tenancy for Cause for the same

reasons as set forth in the Notice which was the subject matter of the hearing before me.

This Decision is final and binding on the parties, except as otherwise provided under the Act, and 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 09, 2023

Residential Tenancy Branch