



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC QUORUM PROPERTIES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNR-MT, RP, LAT**

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on February 10, 2023 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a 10 Day Notice for unpaid rent or utilities.
- more time to dispute a Notice to End Tenancy;
- an order for regular repairs; and
- an order authorizing the Tenant to change the locks of the rental unit.

The Tenant, the Landlord's Agents B.T., P.S., and L.A. attended the hearing at the appointed date and time. At the start of the hearing, the Landlord's Agents confirmed receipt of the Tenant's Application and documentary evidence. As no issues were raised relating to service, I find these documents were sufficiently served pursuant to Section 71 of the *Act*. The Landlord's Agents confirmed that they did not submit any evidence in response to the Application.

Preliminary and Procedural Matters

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. For example, if a party has applied to cancel a notice to end tenancy, or is applying for an order of possession, an Arbitrator may decline to hear other claims that have been included in the application and the Arbitrator may dismiss such matters with or without leave to reapply.

I find that the most important issue to determine is whether or not the tenancy is ending based on the 10 Day Notice. As such, the Tenant's request for regular repairs and an order to change the locks to the rental unit are dismissed with leave to reapply.

I note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession and a monetary order if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

At the beginning of the hearing, it was discovered that neither party submitted a copy of the 10 Day Notice that the Tenant was seeking to dispute, and that the Landlord was seeking an order of possession and a monetary order for unpaid rent for.

Section 59 provides that an Application for Dispute Resolution must include the full particulars of the dispute that is to be the subject of the dispute resolution proceeding. Rules 2.5 and 3.1 require that a tenant disputing a notice to end tenancy must provide a copy of the notice to end tenancy they seek to dispute at the time of filing the Application for Dispute Resolution and serve it upon the respondent along with the proceeding package. These requirements are in keeping with the principles of natural justice and intended to ensure a fair proceeding.

Below, I have reproduced Rule 2.5 for the parties' reference:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [Consideration of new and relevant evidence].

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.

[My emphasis underlined]

When a Tenant files an online application to dispute a notice to end tenancy, the online system prompts the applicant to upload the notice to end tenancy or deliver it to the Residential Tenancy Branch within three days.

If a document is not available at the time of filing, an applicant may submit the document as soon as possible but not later than 14 days before the hearing, as provided under Rule 3.14.

In seeking to cancel a notice to end tenancy, I can think of no other document that is more relevant than the notice to end tenancy. The Tenant did not provide a copy of the 10 Day Notice he seeks to cancel when he filed, at any other time, for my review or with the hearing package he sent to the Landlord. The Tenant did not provide a reason for not providing the notice to end tenancy other than he stated he did not know he had to which is not a basis for not complying with the requirements of the Act or the Rules of Procedure. Therefore, I find the Tenant's actions, or lack thereof, to be a violation of the requirements of section 59 of the Act and Rules 2.5 and 3.1 of the Rules of Procedure.

In light of the above, I dismiss the Tenant's Application to dispute the 10 Day Notice. I do not provide the Landlord with an Order of Possession or a Monetary Order as provided under section 55 of the Act, as I do not have a copy of the 10 Day Notice before me and I am unable to verify that the notice complies with the form and content requirements of 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: June 06, 2023

Residential Tenancy Branch