



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COAST FOUNDATION SOCIETY (1974)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Applicant's Application for Dispute Resolution, made on May 31, 2023 (the "Application"). The Applicant applied for an order of possession to end a tenancy early for immediate and severe risk, pursuant to the *Residential Tenancy Act* (the "Act").

At the start of the hearing, it was discussed that the parties had entered into a program agreement, which outlines in part:

- intended for individuals with disabilities, mental health issues, substance use concerns, medical support needs, and who are currently homeless or at risk of homelessness;
- housing is temporary until you are able to move to housing that is more independent;
- housing is provided to participants while they take part in the program;
- the Residential Tenancy Act does not apply to this agreement;
- program provide a range of support services; meals, group programs, medication, education, community based programs, and life skills.

I note that the program agreement also allows the Applicant to end the living arrangement within 24 hours and 48 hours depending on the severity of infractions. The program agreement is signed by the Respondent and program provider on January 13, 2023.

The Applicant confirmed during the hearing, the program agreement has been an issue in past disputes and that the Tenancy Act should apply to this living situation. The Applicant confirmed that the program is funded in part by BC Housing. The Applicant

stated that the housing was initially meant to be temporary and transition in nature, however, over the years has accommodated longer stays. The Applicant stated that they offer programs to participants to stabilize and support them in an attempt to transition them to more independent living.

The Respondent confirmed the above-mentioned services being offered and stated that there was no definitive timeline in place to vacate, only that the program is meant to transition people who are homeless or at risk of homelessness to gain greater independence while being supported.

Preliminary Matters

What this Act does not apply to

4 This Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,
- (e) living accommodation occupied as vacation or travel accommodation,
- (f) living accommodation provided for emergency shelter or transitional housing,**
- (g) living accommodation
 - (i) in a community care facility under the *Community Care and Assisted Living Act*,
 - (ii) in a continuing care facility under the *Continuing Care Act*,
 - (iii) in a public or private hospital under the *Hospital Act*,

- (iv) if designated under the *Mental Health Act*, in a Provincial mental health facility, an observation unit or a psychiatric unit,
- (v) in a housing based health facility that provides hospitality support services and personal health care, or
- (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,
- (h) living accommodation in a correctional institution,
- (i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,
- (j) tenancy agreements to which the *Manufactured Home Park Tenancy Act* applies, or
- (k) prescribed tenancy agreements, rental units or residential property.

Definitions

1 (1) In this regulation, "**Act**" means the *Residential Tenancy Act*, S.B.C. 2002, c. 78.

(2) For the purposes of section 4 (f) of the Act [*what the Act does not apply to*], "**transitional housing**" means living accommodation that is provided

- (a) on a temporary basis,
- (b) by a person or organization that receives funding from a local government or the government of British Columbia or of Canada for the purpose of providing that accommodation, and
- (c) together with programs intended to assist tenants to become better able to live independently.

In this case, I find that the living situation described by both parties resembles that of a transitional housing accommodation which is offered on a temporary basis, offering participants services that prepare them in seeking longer term housing and to live independently. I find that the program receives funding from BC Housing for the purpose of providing the accommodation.

As such, I find that the living accommodation meets the definition of transitional housing as described in Section 1 of the Regulations. I find that the Act does not apply to living accommodations provided for transitional housing, pursuant to Section 4(f) of the *Act*.

In light of the above, I dismiss the Applicant's Application without leave to reapply.

Conclusion

I decline to proceed due to a lack of jurisdiction, and the application is dismissed without leave to reapply. The parties should seek legal advice from their respective lawyers as to how to resolve this dispute.

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 12, 2023

Residential Tenancy Branch