



DECISION

Joined Disputes

The two parties were involved in two separate dispute files pertaining to the same tenancy. This information became known to the arbitrator at the first hearing, involving the file number ending in 603. At the second hearing, which was for the file number ending in 630, both parties agreed that it was logical and efficient to amend the applications and to have them joined.

Thus, I exercise my delegated authority under 58, 62, and 64 of the Residential Tenancy Act (the Act), and I amend these two dispute applications to be joined and heard together.

Introduction

Pursuant to section 58 of the Act, I heard two linked applications.

The Tenant's January 29, 2025 Application for Dispute Resolution under the Act is for:

- Cancellation of the Landlord's One Month Notice to end tenancy for cause and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act;
- An Order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act.

The Tenant's February 11, 2025 Application for Dispute Resolution under the Act is for:

- An Order of Possession, pursuant to section 54 of the Act.

Advocate SG attended both hearings for the Tenant, while Tenant KG only attended the first hearing; they will collectively be referred to as the Tenant throughout the decision unless otherwise specified.

AH, AM, and MD attended both hearings for the Landlord; they will collectively be referred to as the Landlord throughout the decision unless otherwise specified.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord acknowledges service of the Proceeding Packages for both disputes and is duly served in accordance with the Act.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.

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Preliminary Matters

Jurisdiction – is this tenancy transitional housing as defined in the Regulation?

Section 4(f) of the Act indicates that the Act does not apply to living accommodation provided for emergency shelters or transitional housing. The Landlord's position is that the tenancy is transitional housing. However, the Tenant argues that this is a supportive housing type of tenancy, which has some exemptions but is still under the jurisdiction of the Residential Tenancy Branch.

The background of this dispute involves an eviction notice dated January 7, 2025, which indicates an effective date of February 6, 2025. I note that the eviction notice is not an official Residential Tenancy Branch notice to end tenancy form. The Tenant has disputed this notice and is also seeking an Order of Possession to repossess their rental unit.

Section 1(2) of the Residential Tenancy Regulation (the Regulation) provides definitions on what is required for a tenancy to be considered "transitional housing" – specifically there are three conditions that must be met. I conclude that I must answer this jurisdictional question as to whether this tenancy is transitional housing before assessing the claims before me. Both parties understood this and have provided evidence and testimony for their respective positions. I have analyzed each of the three conditions below, in order of how they appear in the Regulation.

Regulation section 1(2)(a) – transitional housing means living accommodation that is provided on a temporary basis

I have reviewed the tenancy agreement, also called the program agreement, during the hearing with both parties. For simplicity I will refer to this document as "the agreement" moving forwards. Both parties agree that there is a term in the agreement that indicates a fixed term of 18 months. The Landlord asserts that the intention was for the Tenant to move on to other housing after this term expires. The Landlord acknowledges that there is the possibility of an extension or renewal if the Tenant was not ready to move on to more independent housing.

The Tenant acknowledges the temporary basis of the agreement but also emphasizes the term permitting the possibility of extension which calls into question how “temporary” is to be defined. The Landlord asserts that temporary is not the same as short-term, and states that the requirement in the Regulation is for it to be temporary.

I note that there is no language in the agreement to suggest any default to month-to-month after the fixed term. Overall, based on the testimony and evidence of the parties, I conclude that the agreement is temporary in nature.

Regulation section 1(2)(b) – transitional housing means living accommodation that is provided 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

The Tenant has presented a previous decision involving the Landlord, where the Landlord’s representatives had argued that they are under the Residential Tenancy Act’s jurisdiction because they do not receive funding from the government and argued that the tenancy is not transitional housing. I note that the file number is redacted. Currently, for these types of jurisdictional disputes, each individual tenancy is assessed separately, and it is possible for one tenancy to fall under jurisdiction while another does not, even if the housing provider/landlord is the same entity. This past decision is from June 2022.

The Landlord asserts that they know little about the previous decision as none of the representatives of the Landlord attending this dispute were part of that previous file. Overall, I will focus my analysis on whether this current tenancy receives government funding for the purpose of providing this specific accommodation.

The Landlord has supplied their land title and mortgage agreement which shows them listed as one of the borrowers from the lenders who are listed as the British Columbia Housing Management Commission. Part 6(1)(n) of the mortgage agreement lists the development, use, and operation of the land for the specific purpose as set out in Appendix “A” as a promise made by the borrowers. Appendix “A” of this document shows that, for the term of the mortgage, the land shall be used to provide a minimum of 8 transitional housing units for eligible occupants.

The Tenant has also presented a document labelled as an excerpt of the 2023-2024 Annual Report and alleges that this is where the Landlord reports that they do not receive fundings from any major funders for this specific residency. My problem with this piece of evidence is that it is typed up on a digital document by the Tenant; I was unable to locate a copy of the 2023-2024 Annual Report itself in the evidence and thus, I am unable to verify the authenticity of the excerpt nor am I able to assess the context of the information.

The Landlord states that they receive finding from BC Housing on a lump sum basis, due to funding rules that apply when the recipient is the owner of the land in question.

The Landlord has provided three examples of receiving BC government funding for the operation of the residential property where the rental unit is located. These include a series of emails between the Landlord's executive and administrative staff and representatives from BC Housing, a list of repair and maintenance costs, an invoice for materials procured from a local lumber store, a letter from BC Housing, and a direct deposit notice from BC Housing in the sum of \$42,338.17. According to the Landlord, this evidence details how the Landlord coordinates and receives funding from BC Housing for the repair and maintenance of the residential property.

I note that the letter from BC Housing discusses \$36,000.00 for an interior renovation project which is contingent on the Landlord maintaining affordable long-term rental housing for low- and moderate-income households for a minimum of 10 years – a point that was raised by the Tenant during the hearing. For my analysis, I note that this residential property seems to include permanent/long-term housing units based on the testimony of the Landlord, who states that there is one permanent housing accommodation at the property.

Based on the totality of the evidence before me, and on the balance of probabilities, I conclude that the Landlord receives funding from BC Housing, and that at least some of the funding is for the purpose of providing transitional housing at the residential property where the rental unit is located. It is clear that there is regular channel of communication between BC Housing and the Landlord regarding funding, and the mortgage agreement with BC Housing envisions the provision of transitional housing units. Although I acknowledge that there is likely a mix of different types of units at the location, I conclude that this particular tenancy and rental unit receives the funding for operation as transitional housing.

*Regulation section 1(2)(c) – transitional housing means living accommodation that is provided **together with programs intended to assist tenants to become better able to live independently***

The Landlord discussed how the tenancy includes multiple programming supports such as drug safety, housing stability, financial health/planning/independence, in addition to optional and mandatory meeting offerings. The Landlord had provided evidence to substantiate the provision of these programs, which I have reviewed.

I acknowledge that some of the supports can arguably fit under the criteria of supportive housing, as asserted by the Tenant. The Tenant argues that there isn't much structure to the programs offered by the Landlord as typically expected for transitional housing and believes that there needs to be a general plan in writing regarding the program(s) – with evidence to demonstrate progress. The Tenant argues this is lacking in this tenancy.

The Landlord has supplied an email to the Tenant dated October 4, 2024, which includes a link and a few attachments to budgeting, and bankruptcy help/debt consolidation. There are also emails demonstrating that the Landlord was engaged with

the Tenant to connect them with financial support services, and I acknowledge this is likely related to difficulties that the Tenant was experiencing with regard to paying rent on time.

I also located an email in early January 2025 where the Landlord's staff communicated with the Tenant to report recent drug poisonings in the area, and how the Tenant can opt in to the alerts via text message.

Another series of emails are from the residency's program coordinator email which was blind carbon copied and sent to all residents; it discusses how the Landlord holds four resident meetings per year and provides the date and time of the next meeting, and outlines the expected attendance of all residents who are not preoccupied by extenuating circumstances. There is also evidence of emails communicating social events such as a garden work party, a holiday gathering, and similar events.

On the balance of probabilities, and based on the evidence and testimony before me, I conclude that the Landlord is offering programs that are intended to assist the Tenant in being better able to live independently.

I acknowledge that the circumstances straddle the line between transitional and supportive housing in several areas. However, I conclude and believe this tenancy is transitional in nature, as the alternative would be some sort of independent or supportive housing but the circumstances here fit most closely with the definition of transitional housing.

Thus, I must decline jurisdiction on the claims brought forward by the Tenant.

Conclusion

I decline jurisdiction and will not proceed with assessing the merits of the applications before me.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: March 3, 2025

Residential Tenancy Branch