



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ALLSTAR DEVELOPMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order regarding a disputed additional rent increase, pursuant to section 43.

The landlord did not attend this hearing, which lasted approximately 22 minutes. The tenant's three agents, tenant JD ("tenant"), "tenant JL," and "tenant MG" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant confirmed that she was the vice president of quality assurance, tenant JL stated that he was the director of finance, and tenant MG said that she was the vice president of programs. All three tenant agents confirmed that they were employed by the landlord company named in this application and they had permission to represent it at this hearing.

Preliminary Issue – Jurisdiction to hear Matter

At the outset of the hearing, I asked the tenant's agents to make submissions regarding jurisdiction, since the tenant raised it as an issue when they made this application.

The tenant and tenant MG testified regarding the following facts. This tenancy may be excluded by sections 4(f) or 4(g)(vi) of the *Act*. The tenant is a not-for-profit housing cooperative that rents the property from the landlord in order to provide free accommodation for youth to take a break from substance use. The tenant provides a temporary safe space for 4 to 8 days, for youth to sleep, eat, and bathe. The tenant assists with support for next steps and goals by way of referrals. The tenant is a residential care resource. This could be transitional housing, whereby it is a hospice

and some youth transition to the street after. Some youth are homeless on the street or precariously housed, where they are couch surfing, living in tents, or in a group, foster or family home. The tenant provides respite and support for youth to find more stable housing. The health authority sends nurses to provide health care to the youth.

Analysis – Jurisdiction

Section 4(f) of the *Act*, outlines a tenancy in which the *Act* does not apply:

*4 This Act does not apply to
(f) living accommodation provided for emergency shelter or transitional housing,*

Section 1(2) of the *Regulation* defines “transitional housing” as the following:

*(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.*

I find that the tenant provides living accommodation on a temporary basis to youth, for a period of 4 to 8 days, as per section 1(2)(a) of the *Regulation*.

I find that the tenant receives funding from the government of British Columbia, as per section 1(2)(b) of the *Regulation*. In the tenancy agreement provided by the tenant for this hearing, which is effective from July 1, 2018 to June 30, 2020, it indicates in section 16 at page B-3 (my emphasis added):

*“Subject only to documentation evidence of losing its **funding from the relevant authority of the provincial government for its operation in the demised premises**, the Tenant is given the right to terminate the Lease by giving not less than three (3) calendar months’ prior written notice to the Landlord”*

I find that the tenant offers programs to youth for them to become better able to live independently, as required by section 1(2)(c) of the *Regulation*. The tenant offers meals, housing support and referrals, and health care services to help youth to better live independently before they transition to their next home. The tenant's services are described as a withdrawal management facility for youth, as per section 6 at page B-2 of the tenancy agreement (my emphasis added):

*"The Tenant agrees that said premises during the term of this lease shall be used as a **withdrawal management facility for youth**, and for no other purpose whatsoever without the written consent of the Landlord..."*

The tenant does not occupy or live at the rental property. The tenant rents the property from the landlord in order to provide housing and services to youth. The youth do not pay rent to the tenant, as they live at the rental property for free.

On a balance of probabilities and for the reasons stated above, I find that the tenant provided undisputed evidence that this rental unit is living accommodation provided for transitional housing. The *Act* specifically excludes living accommodation provided for transitional housing. Accordingly, I find that I am without jurisdiction to consider the tenant's application because it is excluded by section 4(f) of the *Act*.

For the above reasons, I find that this is not a matter within the jurisdiction of the RTB. Accordingly, I decline jurisdiction over the tenant's application.

Conclusion

I decline jurisdiction over the tenant's application. I make no determination on the merits of the tenant's application. Nothing in my decision prevents either party from advancing their claims before a Court of competent jurisdiction.

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: March 11, 2021

Residential Tenancy Branch