



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding B.C. HOUSING, RAINCITY HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT

Introduction

This hearing was convened as a result of the Applicant's Application for Dispute Resolution, made on February 3, 2023 (the "Application"). The Applicant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for the Tenant.

The Applicant and the Respondent's Agent attended the hearing at the appointed date and time. At the start of the hearing, the parties confirmed receipt of the interim decision and notice of adjourned hearing, along with each other's documentary evidence.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

At the start of the hearing, the Respondent's Agent raised the issue of Jurisdiction. The Respondent's position is that the *Act* does not apply to this living situation.

The Respondent's Agent stated that following; the living facility is considered to be transition housing and is a temporary accommodation with programs intended to assist participants to become better able to live independently. The Respondent's Agent stated that the program receives funding from government sources (BC Housing) for the purposes of providing accommodation and the related services. The Respondent provided a letter from BC Housing in support of funding. The Respondent submitted a

program letter which indicates that the participants are provided the following service while taking part in the program;

*daily meals *laundry services *WIFI *home support services *furnishings and linens
*social supports *case planning services *connections to, and support around,
accessing medical care on site and off site *peer operated safe consumption area
*security and guest management *culturally relevant services and supports (ie
indigenous programming) *rapid response to maintenance and building issues All
services are provided at no charge for the program participants.

The Respondent's Agent stated that the program creates a transition plan for each member of the program as the aim is to minimize the amount of time necessary to transition to independent, long-term, permanent housing. The Respondent provided a Program Agreement that outlines the rules of the program as well as a participant's rights and responsibilities while participating in the program. It makes it clear that the RTA does not apply.

The Applicant confirmed that he was required to take programs aimed to support him in finding longer-term housing, but that he could stay as long as he wanted until he found longer term housing. The Applicant stated that he would often help around the property doing extra chores such as gardening.

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: April 24, 2023

Residential Tenancy Branch