



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, FF

Introduction / Background / Evidence

This hearing concerns the tenant's application for a monetary order as compensation for the double return of a portion of the security deposit / and recovery of the filing fee.

While both parties attended the hearing, neither party submitted any documentary evidence whatsoever in advance of the hearing. However, after the termination of the hearing, both parties faxed documentary submissions to the Branch. It is unknown whether the documents submitted respectively by the parties to the Branch after the hearing, were copied by one party to the other.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Residential Tenancy Branch Rules of Procedure, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Below, the attention of the parties is drawn to certain provisions set out in the **Residential Tenancy Branch Rules of Procedure** (the "Rules").

Rule # 3 speaks generally to "**Serving the Application and the Applicant's Evidence.**" **Rule 3.5** addresses **Evidence not filed with the Application for Dispute Resolution**, and specifically provides, in part, as follows:

3.5 (a) Copies of any documents, photographs, video or audio tape evidence that are not available to be filed with the application, but which the applicant intends to rely upon as evidence at the dispute resolution proceeding, must be received by the Residential Tenancy Branch and must be served on the respondent as soon as possible, and at least five (5) days before the dispute resolution proceeding as those days are defined in the "Definitions" part of the Rules of Procedure.

(b) If the time between the filing of the application and the date of the dispute resolution proceeding does not allow the five (5) day requirement of a) to be met, then the evidence must be received by the Residential Tenancy Branch and served on the respondent at least two (2) days before the dispute resolution proceeding.

Rule # 4 speaks generally to “**Serving the Respondent’s Evidence.**” **Rule 4.1** addresses **Serving the respondent’s evidence**, and specifically provides, in part, as follows:

4.1 (a) If the respondent intends to dispute an Application for Dispute Resolution, copies of all available documents, photographs, video or audio tape evidence the respondent intends to rely upon as evidence at the dispute resolution proceeding must be received by the Residential Tenancy Branch and served on the applicant as soon as possible and at least five (5) days before the dispute resolution proceeding as those days are defined in the “Definitions” part of the Rules of Procedure.”

(b) If the date of the dispute resolution proceeding does not allow the five (5) day requirement in a) to be met, then all of the respondent’s evidence must be received by the Residential Tenancy Branch and served on the applicant at least two (2) days before the dispute resolution proceeding.

Rule # 5 speaks to “**Making a Cross-Application for Dispute Resolution,**” as follows:

5.1 A party making a cross-application against the applicant must file an Application for Dispute Resolution and serve it in accordance with Rule 3 [serving the application and the applicant’s evidence] and the Act. If appropriate, and where the party has sufficient time to serve the Application for Dispute Resolution, the required documents and any documents, photographs, video or audio tape evidence on the Applicant and the Residential Tenancy Branch, the Director must schedule the cross-application to be heard by the same Dispute Resolution Officer at the same time as the original application. The minimum time before the scheduled dispute resolution proceeding date that a cross-application may be filed in order to have both applications heard at the same time is five (5) days before the scheduled dispute resolution proceeding date for the first Application for Dispute Resolution, excluding weekends and holidays.

Conclusion

In the absence of a submission of any documentary evidence to support the application in advance of the hearing, and in the absence of any evidence that documents submitted by both parties after the end of the hearing were copied by one party to the other, the tenant's application is hereby dismissed with leave to reapply.

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 7, 2012.

Residential Tenancy Branch