



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, O, OPB

Introduction and Conclusion

This hearing convened as a result of a Landlord's Application for Dispute Resolution filed July 17, 2017 wherein the Landlord sought an Order of Possession, monetary compensation in the amount of \$525.00, authority to retain the Tenants' security deposit, other unspecified relief and recovery of the filing fee.

Only the Landlord attended the hearing. He stated that the Tenants vacated the rental unit sometime in September. He was not able to advise as to when that occurred, noting that he did not live in the community in which the rental unit was located.

The Landlord failed to submit any evidence in support of his claim at the time of filing for dispute resolution. He stated that he did so "last week" at the same time he amended his claim for Dispute Resolution.

A review of the branch records indicates the Landlord filed an Amendment on September 28, 2017: less than two business days prior to the hearing before me. The branch records also indicate the Landlord submitted 26 pages of evidence at that time. Neither the Amendment nor the Landlord's evidence was before me during the hearing on October 3, 2017. Additionally, the Landlord confirmed that he did not serve the Amendment or his evidence on the Tenants.

As I explained to the Landlord during the hearing, I dismiss his claim with leave to reapply as he failed to follow the *Rules of Procedure*. In particular, I find that the Landlord failed to follow: *Rules* 2.5, 3.1, 3.14, and 3.17 of the *Residential Tenancy Rules of Procedure* which provide as follows:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, at the same time as the application is submitted to the Residential Tenancy Branch directly or through a Service BC office, the applicant must submit:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on at the hearing.

3.1 Documents that must be served with the hearing package

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Application for Dispute Resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC office with the Application for Dispute Resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an Application for Dispute Resolution*].

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC office not less than 14 days before the hearing.

In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

3.17 Consideration of new and relevant evidence

Evidence not provided to the other party and the Residential Tenancy Branch directly or through a Service BC office in accordance with the Act or Rules 3.1, 3.2, 3.10, 3.14 and 3.15 may or may not be considered depending on whether the party can show to the arbitrator that it is new and relevant evidence and that it was not available at the time that their application was made or when they served and submitted their evidence.

I find that the Landlord failed to follow the *Rules of Procedure* in terms of submitting and serving his evidence. Due to the late delivery of his evidence and Amendment, those documents were not before me. Similarly, the Landlord failed to serve his Amendment on the Tenants, such that he did not give them notice that he increased his claim from \$525.00 to \$6,275.00; in failing to do so he has also failed to comply with *Rules 2.11* and 3.

One of the principles of natural justice is that a party to a dispute has the right to know the claim against them as well as the opportunity to review and respond to any evidence submitted by the Claimant. In this case, the Landlord failed to serve any evidence on the Tenants and failed to notify the Tenants of his increased monetary claim. I find that to proceed with the hearing would offend *Rule 1.1* which provides that the purpose of the *Rules* is to ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants.

Accordingly, I dismiss the Landlord's claim 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: October 3, 2017

Residential Tenancy Branch