



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FFL

Introduction

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

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55 of the *Act*; and
- recovery of the filing fee for this application from the tenant pursuant to section 72 of the *Act*.

Only the landlord N.K. attended the hearing to speak on the behalf of the landlords, herein referred to as "the landlord". At the outset of the hearing, the landlord advised that the tenants had moved out of the rental unit, and that he had not served them with the Notice of Dispute Resolution Proceeding package for today's hearing. The landlord stated he did not know that he was responsible for serving this information on the tenants as he presumed that the Residential Tenancy Branch would send the information to the tenants.

I explained to the landlord that when a party makes an application for dispute resolution, they must serve the respondent with a copy of the notice of that dispute resolution hearing pursuant to section 59(3) of the *Act* and Rule 3.1 of the Residential Tenancy Branch Rules of Procedure, which states:

3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) *the Notice of Dispute Resolution Proceeding provided to the applicant by the*

Residential Tenancy Branch, which includes the Application for Dispute Resolution;

- b) the Respondent Instructions for Dispute Resolution;*
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) 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].*

In this case, the landlord did not serve the tenants with notice of this hearing. The landlord stated that the tenants have vacated the rental unit and not provided a forwarding address.

The landlord thought he had also applied to recover the unpaid rent owed to him by the tenants. I informed the landlord that the application before me for decision at this hearing had only been made for an Order of Possession.

The landlord appeared unfamiliar with the residential tenancy legislation and seemed uncertain as to what steps to take next regarding recovery of the unpaid rent owing to him by the tenants. I informed the landlord that if he requires assistance regarding the residential tenancy legislation, policies and rules, he could contact the Residential Tenancy Branch to speak with an Information Officer or visit the Branch's website.

Since the landlord did not serve the tenants with notice of this hearing and as he no longer requires an Order of Possession because the tenants have vacated the rental unit, I must dismiss the landlord's application for an Order of Possession.

As the landlord's application was not able to proceed for the reasons identified above, I dismiss the landlord's application to recover the cost of the filing fee from the tenants.

Therefore, the landlord's Application for Dispute Resolution is dismissed in its entirety without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to recovery of the filing fee pursuant to section 72 of the *Act*?

Conclusion

As noted above, I dismiss this Application for Dispute Resolution in its entirety without 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 4, 2018

Residential Tenancy Branch