



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, MNDCT, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenants under the *Residential Tenancy Act* (the “Act”), seeking an order for the Landlord to complete emergency and other repairs, a Monetary Order and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Tenants, who provided affirmed testimony. The Landlord did not attend.

The *Act* and the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing; however, the Tenants testified that due to a misunderstanding, they did not serve the Landlord with either of these documents or the documentary evidence before me.

Section 59 of the *Act* states that except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

Section 3.1 of the Rules of Procedure states that within 3 days of the hearing package being made available by the Residential Tenancy Branch, the Applicant(s) must 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].

Further to this, sections 3.14 and 3.15 of the Rules of Procedure state that documentary and digital evidence that is intended to be relied on at the hearing must be served on the respondent and the Residential Tenancy Branch directly or through a Service BC Office as soon as possible and that in any event, it must be received by the respondent and the Residential Tenancy Branch not less than 14 days before the hearing.

Based on the Tenants' testimony, I find that the Landlord has not been served with the Application, the Notice of Hearing, or the evidence before me in accordance with the above noted sections of the *Act* and the Rules of Procedure. As the opportunity to know the case against you and the opportunity to be heard are fundamental to the dispute resolution process, I find that it would be administratively unfair and a breach of the Rules of Procedure to continue with the hearing of this matter as the Landlord did not have a fair opportunity to know the case against them or appear in their defense. As a result, the Application is dismissed with leave to reapply.

Conclusion

The Tenants' Application is dismissed with leave to re-apply. This is not an extension of any statutory deadline.

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: July 10, 2018

Residential Tenancy Branch