



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, MNSD

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on June 14, 2019 (the “Application”). The Tenants applied for return of the security and/or pet damage deposit and reimbursement for the filing fee.

The Tenants appeared at the hearing. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenants who did not have questions when asked. The Tenants provided affirmed testimony.

The Tenants submitted evidence prior to the hearing. The Landlord did not. I addressed service of the hearing package and Tenants’ evidence.

Tenant M.L. advised that the Tenants did not serve the Landlord with the hearing package or evidence.

RTB notes show the hearing package was sent to the Tenants June 20, 2019 for service on the Landlord by June 23, 2019. The Tenants were required to serve both the hearing package and evidence on the Landlord pursuant to section 59(3) of the *Residential Tenancy Act* (the “Act”) and rule 3.1 of the Rules of Procedure which state:

59 (3) 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. [emphasis added]

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...

[emphasis added]

Service requirements are also set out in the Residential Tenancies Fact Sheet which would have been emailed to the Tenants June 20, 2019 and which was uploaded by the Tenants as evidence June 23, 2019.

The purpose of service is to put respondents on notice of the hearing and give them an opportunity to respond to the claims made against them. The service of documents on a respondent is essential to ensure natural justice and procedural fairness.

Here, the Tenants did not serve the hearing package or evidence on the Landlord and the Landlord did not call into the hearing. As the Tenants did not serve the Landlord, I could not proceed with the hearing. The Application is dismissed with leave to re-apply. This does not extend any time limits set out in the *Act*.

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: September 30, 2019

Residential Tenancy Branch