



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KI-LOW-NA FRIENDSHIP SOCIETY and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, OPC

Introduction

This hearing was convened by way of conference call. The Landlord filed an Application for Dispute Resolution October 31, 2019 (the "Application"). The Landlord applied for an Order of Possession based on a One Month Notice to End Tenancy for Cause dated September 05, 2019 (the "Notice"). The Landlord also sought reimbursement for the filing fee.

The Agents appeared at the hearing for the Landlord. The Tenant did not appear at the hearing which lasted 16 minutes. I explained the hearing process to the Agents who did not have questions when asked. The Agents provided affirmed testimony.

The Agents advised of the correct rental unit address which is reflected on the front page of this decision.

I asked the Agents about service of the hearing package. The Agents could not provide information about how or when the hearing package was served on the Tenant.

Section 59(3) of the *Residential Tenancy Act* (the "Act") states:

(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]

Section 89(2) of the *Act* states:

(2) An application by a landlord under section 55...must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 71 (1)...

[emphasis added]

Rule 3.1 of the Rules of Procedure (the “Rules”) 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...

Rule 3.5 of the Rules states:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure. [emphasis added]

Service requirements are also set out in the RTB Fact Sheet which would have been sent to the Landlord as part of the documents to serve on the Tenant.

I am satisfied based on RTB records that the hearing package was emailed to the Landlord November 05, 2019 for service no later than November 08, 2019.

The Agents could not provide testimony or other evidence about whether the hearing package was served on the Tenant and, if so, how or when. Given this, I cannot be satisfied that the Tenant was served with the hearing package. The Tenant did not appear at the hearing to confirm service of the hearing package. The Tenant did not submit evidence for the hearing which may have satisfied me the Tenant received the hearing package. In these circumstances, I am not satisfied the Tenant was served with the hearing package or was aware of the hearing. Given this, the Application is dismissed.

I dismiss the request for an Order of Possession with leave to re-apply given the service issue. This does not extend any time limits set out in the *Act*.

I dismiss the request for reimbursement for the filing fee for this application without leave to re-apply as the Landlord should have served the hearing package as required.

Conclusion

I am not satisfied the Tenant was served with the hearing package and therefore dismiss the Application.

I dismiss the request for an Order of Possession with leave to re-apply given the service issue. This does not extend any time limits set out in the *Act*.

I dismiss the request for reimbursement for the filing fee for this application without leave to re-apply as the Landlord should have served the hearing package as required.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 19, 2019

Residential Tenancy Branch