



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held on December 19, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- An order that the Landlord comply with the Act, regulations, and/or a tenancy agreement.

The Tenant and the Landlords both attended the hearing. The Tenant stated she sent her Notice of Hearing and evidence by registered mail on December 2 or 3, 2019, but she could not recall when exactly, and she did not have proof of mailing. Although the parties had exchanged emails prior to that time, I explained that email is not an approved method of service under the Act. The Landlords stated that they received the Tenant's application, evidence, and Notice of Hearing on December 6, 2019. As explained during the hearing, the Tenant served the Notice of Hearing and her evidence late. I note the following Rule of Procedure:

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].*

See Rule 10 for documents that must be served with the Notice of Dispute Resolution Proceeding Package for an Expedited Hearing and the timeframe for doing so.

The Tenant filed her application in late October and got her Notice of Hearing in early November 2019, yet waited around a month to send the package to the Landlord. The Tenant did not explain why she waited so long. I find the Tenant failed to serve her Notice of Hearing in accordance with the Rules of Procedure, which is prejudicial to the Landlords and their ability to understand and respond to the issues raised. To exacerbate this issue, the Tenant also filed tried to include an application for monetary compensation, embedded within her application for an order for the Landlord to comply with the Act of the tenancy agreement. Ultimately, the Tenant's application was not well laid out, and was not filed appropriately, and in a timely manner.

Further, her evidence was also served past the deadline. Residential Tenancy Branch Rule of Procedure 3.14 and 3.15 requires that the applicant's evidence to be relied upon at a hearing must be received by the Residential Tenancy Branch and the respondents not less than 14 days before the hearing. The Landlord needs to have received the Tenant's evidence by December 5, 2019. The Tenant's evidence was one day late. Ultimately, the Tenant missed several deadlines, and after considering the totality of the situation, I dismiss the Tenant's application, in full, with leave to reapply.

I encourage both parties to follow the Act and the Rules of Procedure when navigating any future disputes.

Conclusion

The Tenant's application is dismissed, 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: December 19, 2019

Residential Tenancy Branch