



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an order to impose a rent increase greater than the amount calculated under the regulations pursuant to section 43.

The landlord MS attended the hearing ("landlord"). Neither of the tenants attended the hearing although I waited until 11:20 a.m. to enable them to participate in this hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that I was the only person who had called into this teleconference.

The landlord testified that she personally served the tenant, DA with the Application for Dispute Resolution and evidence when she was given the Notice of Dispute Resolution Proceedings from the Residential Tenancy Branch. She was unable to recall the exact date she served the tenant. The landlord did not indicate in her testimony that she ever personally served the tenant, SN.

Preliminary Issue

Rule 3.1 and 3.5 of the Residential Tenancy Branch Rules of Procedure state:

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].

3.5 Proof of service required at the dispute resolution hearing

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.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- a. by leaving a copy with the person;*
- b. if the person is a landlord, by leaving a copy with an agent of the landlord;*
- c. by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- d. if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- e. as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

The landlord was unable to provide an exact date of delivery of the Application for Dispute Resolution to the tenant DA and provided no evidence of serving the tenant, SN. Given the lack of sufficient evidence regarding service, I am not satisfied the tenants were served with the Notice of Dispute Resolution Proceedings and dismiss the landlord's application with leave to reapply.

Conclusion

The landlord'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: January 09, 2020

Residential Tenancy Branch