



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ERP FFT**

Introduction

This hearing was scheduled on an expedited basis and dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant was assisted by a translator.

Preliminary Issue – Service

Neither party served their documentary evidence on the other. Both parties testified that they were unaware that they were required to do this. They are mistaken. Rules of Procedure 10.3 and 10.4 state:

10.3 Serving the notice of dispute resolution proceeding package

The applicant must, within one day 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:

[...]

- evidence submitted to the Residential Tenancy Branch online or in person, or through a Service BC Office with the Application for

Dispute Resolution, in accordance with Rule 10.2 [Applicant's Evidence Relating to an Expedited Hearing].

10.4 Respondent's evidence for an expedited hearing

Copies of all of the respondent's available evidence must be submitted to the Residential Tenancy Branch online through the Dispute Access Site or directly to the Residential Tenancy Branch Office or through a Service BC Office. The respondent's evidence must be served on the other party in a single complete package.

As such, I decline to admit either parties' documents into evidence.

Preliminary Issue – Expedited Hearing

This hearing was scheduled on an expedited basis pursuant to Rule of Procedure 10. Policy Guideline 51 states:

Expedited hearings are usually limited to applications for dispute resolution for:

- an early end to tenancy under section 56 of the RTA and section 49 of the MHPTA,
- an order of possession for a tenant under section 54 of the RTA and section 47 of the MHPTA, or
- emergency repairs under section 33 of the RTA and section 27 of the MHPTA.

At the hearing, the tenant testified that she is moving out of the rental unit on February 1, 2020. She testified that she is now seeking a monetary order compensating her for moving costs and for the rent she paid while the emergency repairs needed to be made. In effect, the tenant seeks to amend her application to obtain a monetary order.

Policy Guideline 51 states:

Except where required in the circumstances, an expedited hearing is not a way to bypass normal service and response time limits to get a quicker hearing. Therefore, once an application for an expedited hearing is made, it cannot be amended except at the hearing with the permission of the arbitrator.

This is to prevent applicants from “queue jumping”, for example, by applying for emergency repairs and then amending the application to request repairs for the replacement of a fridge or oven which is not considered an emergency. Another example is applying for an early end to the tenancy and then attempting to amend the application for an order of possession for unpaid rent and a monetary order for unpaid rent. These types of applications are not appropriate for the expedited hearing process.

At an expedited hearing, an attempt to amend an expedited hearing application from a request for emergency repairs to regular repairs or from an early end to tenancy to a request for an order of possession for unpaid rent will almost always result in the arbitrator dismissing the application and the applicant having to start the application process over from the beginning.

I find that the relief the tenant now seeks is not available to her at an expedited hearing. If the tenant desires a monetary order, she must apply for one. I explicitly make no findings of fact as to the merits of the tenant’s claim for a monetary order.

Accordingly, I dismiss the tenant’s application in its entirety, without 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 27, 2020

Residential Tenancy Branch