



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes CNC, OLC, MNDCT, FFT

Introduction

This matter proceeded by way of an *ex parte* Proceeding, pursuant to section 76(1)(a) of the *Act* and Rule 5.3 of the RTB *Rules*. On January 3, 2020, the RTB received a request, dated January 3, 2020, from the tenants.

The tenants requested that five witnesses be summoned to testify at the upcoming hearing on January 24, 2020. The tenants provided the names of the witnesses but only provided the address for one witness of the five witnesses. The tenants also provided a four-page description of what the tenants think the witnesses might testify about at the upcoming hearing.

Issue to be Decided

Should the five witnesses be summoned to testify?

Analysis

The tenants have made an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), orders for the landlord to comply, and a monetary order.

Rule 5.3 states the following with respect to an application for a summons:

On the written request of a party or on an arbitrator's own initiative, the arbitrator may issue a summons requiring a person to attend a dispute resolution proceeding or produce evidence. A summons is only issued in cases where the evidence is necessary, appropriate and relevant. A summons will not be issued if a witness agrees to attend or agrees to provide the requested evidence.

A request to issue a summons must be submitted, in writing, to the Residential Tenancy Branch directly or through a Service BC Office, and must:

- state the name and address of the witness;*
- provide the reason the witness is required to attend and give evidence;*
- describe efforts made to have the witness attend the hearing;*
- describe the documents or other things, if any, which are required for the hearing; and*
- provide the reason why such documents or other things are relevant.*

The tenants did not indicate the addresses of BM, GK, EK, MK (“four witnesses”). The tenants did not indicate whether they asked the four witnesses to testify at the upcoming hearing or whether the four witnesses refused to testify after being asked. As per RTB Rule 5.3, the tenants are required to provide the addresses of all witnesses and to “describe the efforts made to have the witness attend the hearing.” I find that the tenants failed to meet both requirements.

The tenants indicated the address of one of the witnesses, KE (“one witness”). The tenants also indicated that this one witness was willing to attend the hearing, to testify on the tenants’ behalf, and to produce documents. As noted above, “a summons will not be issued if a witness agrees to attend or agrees to provide the requested evidence.”

For the reasons stated above, the tenants’ request that the five witnesses be summoned to testify, is dismissed without leave to reapply.

Conclusion

The tenants’ request that the five witnesses be summoned to testify is dismissed 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 09, 2020

Residential Tenancy Branch