



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LL: MNDL-S, FFL, MNRL-S, MNDCL-S
 TT: FFT, MNSD

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Landlord’s Application for Dispute Resolution was made on June 14, 2019, (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- a monetary order for money owed or compensation for damage or loss;
- a monetary order for unpaid rent;
- an order to retain the security deposit; and
- an order granting recovery of the filing fee.

The Tenants’ Application for Dispute Resolution was made on July 24, 2019, (the “Tenants’ Application”). The Tenants applied for the following relief, pursuant to the *Act*:

- an order granting the return of all or part of the security deposit; and
- an order granting recovery of the filing fee.

Preliminary Matters

The parties had a dispute resolution hearing scheduled on September 30, 2019. The hearing was adjourned and reconvened on November 4, 2019. Only the Landlord appeared to the hearing on November 4, 2019. No one appeared for the Tenants. In the decision dated November 14, 2019 the Landlord was awarded a monetary order for unpaid rent and compensation. The Tenants applied for a review consideration on December 2, 2019 and was granted a new hearing based on the fact that they were unable to attend the reconvened hearing. On December 10, 2019 the arbitrator granted the Tenant a new hearing and suspended the original decision and monetary order pending the outcome of this review hearing.

The review hearing was scheduled for 11:00 AM on February 20, 2020 as a teleconference hearing. The Tenants and the Tenants' Legal Advocate D.D. attended the hearing and provided affirmed testimony. No one appeared for the Landlord. The conference call line remained open and was monitored for 32 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Tenant, D.D., and I were the only persons who had called into this teleconference.

The Tenants stated that they served the Landlord with a copy of the review consideration decision by registered mail on December 17, 2019. During the hearing, the Tenants were asked to provide confirmation of service as no one for the Landlord had called into the hearing. The Tenants were unable to provide any confirmation that the Landlord was served with a copy of the review consideration decision.

According to the Residential Tenancy Branch Rules of Procedure 3.1 (the "Rules of Procedure"); 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].*

Section 89 of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution: 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 Residential Tenancy Branch Policy Guideline 12 (the “Policy Guidelines”) states that; all parties named on an application for dispute resolution must be served notice of proceedings, including any supporting documents submitted with the application. Where more than one party is named on an application for dispute resolution, each party must be served separately. Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.

The Rules of Procedure 3.5 states that 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.

In this case I find that the Tenants provided insufficient evidence to demonstrate that the Landlord was properly served a copy of the review consideration decision. As such, I dismiss the Tenants’ Application without leave to reapply.

Conclusion

The Tenants have provided insufficient evidence to demonstrate that the Landlord was properly served a copy of the review hearing decision. The Tenants’ Application is dismissed without leave to reply. The original decision and monetary order granted by the Arbitrator following the original hearings are confirmed and may be enforced.

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: February 24, 2020

Residential Tenancy Branch