



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on May 2, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage, compensation, or loss;
- a monetary order for unpaid rent; and
- an order granting recovery of the filing fee.

Preliminary Matters

The parties had a dispute resolution hearing scheduled on June 8, 2020. Only the Landlord appeared to the hearing on June 8, 2020. No one appeared for the Tenants. In the decision dated June 11, 2020 the Landlord was awarded a monetary order for unpaid rent and compensation. The Tenants applied for a review consideration on June 18, 2020 and were granted a new hearing based on the fact that they were unable to attend the original hearing. On June 23, 2020 the arbitrator granted the Tenants a new hearing and suspended the original decision and monetary order pending the outcome of this review hearing.

The review hearing was scheduled for 9:30 AM on July 23, 2020 as a teleconference hearing. Only the Tenant E.M. attended the review hearing and provided affirmed testimony. No one appeared for the Landlord. The conference call line remained open and was monitored for 18 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, E.M. and I were the only persons who had called into this teleconference.

The Tenant stated that she received a copy of the review consideration decision from the Residential Tenancy Branch on June 29, 2020. The Tenant stated that she was unaware that the Tenants were required to serve a copy of the review consideration decision to the Landlord. During the hearing, we reviewed the review consideration decision which clearly states;

“Notices of the time and date of the hearing are included with this Review Consideration Decision for the review applicant to serve to the review respondent within 3 days of receipt of this Decision. The review applicant must also serve a copy of this Decision to the other party”

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 accept that the Tenants did not serve the Landlord with a copy of the review consideration decision, therefore the Landlord was unaware of the review hearing. As such, I dismiss the Tenants' Application without leave to reapply.

Conclusion

The Tenants have provided no 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 hearing is 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: July 23, 2020

Residential Tenancy Branch