



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an expedited application regarding the above-noted tenancy. The landlords applied for:

- an order for early termination of a tenancy and order of possession, pursuant to section 56 of the *Act*; and
- an authorization to recover the filing fee, pursuant to section 72 of the *Act*.

I left the teleconference connection open until 9:49 A.M. to enable the tenant (respondent) to call into this teleconference hearing scheduled for 9:30 A.M. The tenant did not attend the hearing. 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 the landlords (applicants) and I were the only ones who had called into this teleconference. The landlords attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords affirmed the notice of hearing and evidence (the materials) were served by registered mail on July 30, 2020. On the same day the package was sent by regular mail to the tenant's work address and also attached to the rental unit's door.

The notice of hearing for this expedited application is dated July 17, 2020. The landlords argued the email of both landlords were provided to the Residential Tenancy Branch (RTB) and the notice of hearing was only sent to landlord BS. Landlord BS was on vacation without access to his email since before July 17, 2020. Landlord SS called the RTB on July 30 and advised the notice of hearing had not been received.

Rule of Procedure 10.3 states:

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:

- the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- the Respondent Instructions for Dispute Resolution;
- an Order of the director respecting service;
- the Expedited Dispute Resolution Process Fact Sheet (RTB-114E) provided by the Residential Tenancy Branch; and
- 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].

(emphasis added)

The landlords only served the materials for this expedited hearing 13 days after it was available, and 12 days before the hearing. I find the landlords did not serve the materials in accordance with the Rules of Procedure or the Act.

Conclusion

I dismiss the landlords' application for an order for early termination of a tenancy and order of possession with leave to reapply.

I dismiss the landlords' application for an authorization to recover the filing fee 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: August 12, 2020

Residential Tenancy Branch