



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1035412 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

The landlord filed an Application for Dispute Resolution on September 25, 2020 seeking an order to end the tenancy on the basis that the tenant poses an immediate and severe risk to the property, other occupants or the landlord. They also applied for reimbursement of the Application filing fee.

The matter proceeded by way of a conference call hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on October 16, 2020. In the conference call hearing I explained the process to both parties and provided the attending party the opportunity to ask questions.

Preliminary Issue – service of the Notice of Dispute Resolution

The landlord stated they provided copy of the notice of dispute resolution to the tenant on October 13, 2020. They provided a ‘Proof of Service’ document to show the notice was attached on the door of the unit. The document does not indicate a precise date for this transaction; however, a witness signed on October 13, 2020.

The landlords in the hearing stated they did not receive notice from the Residential Tenancy Branch until September 29, 2020. Then they needed time to prepare their evidence before the hearing on October 16, 2020.

The tenant stated they heard about this hearing on October 13, 2020. They did not provide documentary evidence for this hearing.

The *Act* section 59 contains the provisions for starting proceedings in a dispute resolution. Subsection (3) states: “. . . a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.”

The *Act* section 89 gives the rules for service of the application for dispute resolution. This is by leaving a copy with the person or their agent or sending a copy via registered mail.

Additionally, the Rules of Procedure that are crafted to ensure a fair process specify the documents to be served by the applicant (here, the landlord) to the respondent (here, the tenant). These are: the Notice of Dispute Resolution Proceeding provided when applying; the Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

The landlord did not provide a copy of the Notice of Dispute Resolution proceeding until three days prior to the hearing. The tenant did not have ample time to prepare their evidence to speak to the issues at hand, in response to an urgent application to end the tenancy. Because the matter is urgent, I find the tenant should be afforded as much time as possible prior to the hearing to prepare submissions and evidence. The landlord did not give the required information to the tenant as required by the *Act* and Rules of Procedure.

Conclusion

I dismiss the landlord's application to end the tenancy based on an immediate and severe risk to the property, other occupants or the landlord. The landlord has leave to reapply. This decision does not impact any deadlines as set forth in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 16, 2020

Residential Tenancy Branch