



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, CNL, RP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on September 04, 2020 (the "Application"). The Tenants applied as follows:

- To dispute a Two Month Notice to End Tenancy for Landlord's Use of Property;
- For a repair order; and
- To recover the filing fee.

The Tenants appeared at the hearing. Nobody appeared at the hearing for the Landlords. I explained the hearing process to the Tenants. The Tenant provided affirmed testimony.

The Tenants advised that they vacated the rental unit October 29, 2020.

The Tenants submitted evidence prior to the hearing. The Landlords did not. I asked the Tenant about service of the hearing package. The Tenant said the hearing package was not sent to the Landlords.

Section 59(3) of the *Residential Tenancy Act* (the "Act") states:

(3) Except for an application referred to in subsection (6), 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.

(emphasis added)

Rule 3.1 of the Rules of Procedure (the “Rules”) states:

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].

(emphasis added)

I am not satisfied the Tenants served the hearing package on the Landlords as required by section 59(3) of the *Act* and rule 3.1 of the Rules. The Landlords did not appear at the hearing. In these circumstances, the Application is dismissed given the lack of service.

The request to recover the filing fee is dismissed without leave to re-apply. I am not satisfied the Tenants are entitled to recover the filing fee given they did not serve the hearing package as required and were not successful on the Application.

The remaining requests are dismissed with leave to re-apply. However, as explained to the Tenants at the hearing, the remaining issues are now moot points given the Tenants have vacated the rental unit. Further, this decision does not extend any time limits set out in the *Act*.

Conclusion

The Application is dismissed given a lack of service of the hearing package. The request to recover the filing fee is dismissed without leave to re-apply. The remaining requests are dismissed with leave to re-apply; however, are now moot points given the Tenants have vacated the rental unit. This decision does not extend any time limits set out 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: November 03, 2020

Residential Tenancy Branch