



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BIRDS NEST PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPT

Introduction

This hearing convened as a result of a “Tenant’s Application for Dispute Resolution” filed on December 3, 2020 wherein the Applicant sought an Order of Possession of the rental unit.

The hearing of the Application was scheduled for 9:30 a.m. on January 11, 2021. Both the Applicant, L.M. and A.C., a representative of the Respondent, called into the hearing.

Preliminary Matter—Service of Application Materials

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure*. *Rule 3.1* sets out the service requirements for an Applicant and provides as follows:

3.1 Documents that must be served

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;

- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

In the case before me, neither party submitted any evidence. The Applicant claimed to have submitted documents in person at the Burnaby. That evidence was not before me. The Applicant confirmed she did not provide the evidence to the Respondent.

The nature of the claim relates to the Applicant's request for an order of possession of the rental unit. The Respondent's representative, A.C., stated that the Applicant was a roommate of a former tenant, D., and was not herself a tenant. The Applicant claimed she paid a security deposit to this former tenant. She also claimed she signed a residential tenancy agreement with A.C. A.C. denied entering into a tenancy with the Applicant and confirmed the rental unit has been rented to third parties under a new tenancy agreement.

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure* and the Principles of Natural Justice. One of the principles is that a party to a dispute has a right to know the claim against them, including the right to receive and review any evidence submitted by the Applicant. In this case the Applicant failed to serve her evidence on the Respondent such that the Respondent was not afforded the opportunity to review and meaningfully respond to this evidence.

Conclusion

I therefore dismiss the Application with leave to reapply.

Should the Applicant considering making a further application, she is encouraged to consider *Residential Tenancy Branch Policy Guideline 13—Rights and Responsibilities of Co-tenants* and *Guideline 19—Assignment and Sublet*.

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: January 11, 2021

Residential Tenancy Branch