



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Goodrich Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, CNR

Introduction

This hearing was convened as a result of the Tenant's Applications for Dispute Resolution, made on October 21 and 25, 2020 (the "Applications"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a 10 Day Notice for unpaid rent or utilities (the "10 Day Notice") dated October 14, 2020; and
- an order that the Landlord comply with the Act, tenancy agreement, or regulations.

The Tenant and the Landlord's Agents G.C. and D.L. attended the hearing at the appointed date and time. The Tenant testified that he served the Landlord with his Applications and documentary evidence by Canada Post Registered Mail on December 28, 2020. The Landlord's Agents stated that they did not receive the Tenant's Application until January 4, 2021, which did not leave them with sufficient time to respond to the Tenant's claims.

The Landlord's Agents clarified that the Landlord is no longer seeking to end the tenancy based on the 10 Day Notice dated October 14, 2020 as the Tenant has paid his rent since the 10 Day Notice was served.

Preliminary Matters

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.

I find that the Tenant has not served the Landlord within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch. I accept that the Tenant served his Applications to the Landlord on December 28, 2020 which was not received by the Landlord until January 4 2021. I find that the Tenant served the Landlord late, and accept that the Landlord has not had

sufficient time to respond to the Applications. As such, I dismiss the Tenant's Applications with leave to reapply.

I note that Section 55 of *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

During the hearing the Landlord's Agents acknowledged that the Tenant paid his rent after he received the 10 Day Notice, therefore, the Landlord is no longer seeking to end the tenancy based on the 10 Day Notice dated October 14, 2020. As such, I cancel the 10 Day Notice and order that the tenancy continue until it is ended in accordance with the *Act*.

Conclusion

The Tenant's Applications are dismissed with leave to reapply. The 10 Day Notice dated October 14, 2020 is set aside and is of no effect. The tenancy will continue until it is ended in accordance with 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 *Residential Tenancy Act*.

Dated: January 14, 2021

Residential Tenancy Branch