



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Anhart Community Housing
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

On January 6, 2021 the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") asking to cancel a One Month Notice to End Tenancy dated January 1, 2021 ("the One Month Notice").

The hearing was scheduled for 9:30 AM on March 8, 2021 as a teleconference hearing. L.H. appeared on behalf of the Tenant at the appointed date and time. No one appeared for the Landlord. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that L.H. and I were the only persons who had called into this teleconference.

At the start of the hearing, L.H. indicated that the Landlord had agreed to cancel the One Month Notice to End Tenancy, therefore, the Landlord would be unlikely to attend the hearing.

L.H. stated that he served the Tenant's Application to the Landlord via Registered Mail on January 8, 2021. L.H. was unable to provide the tracking information during the hearing. Furthermore, the Tenant did not submit any documentary evidence in support of service of the Tenant's Application.

Preliminary Matters

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) 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]...*

According to the Residential Tenancy Rules of Procedure 3.1 Documents that must be served with the Notice of Dispute Resolution Proceeding Package

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 3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution. Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

In this case the Tenant provided insufficient evidence to demonstrate that they served the Application to the Landlord in accordance with the Act and Rules of Procedure. As such, I dismiss the Tenant's Application with leave to reapply. As no one attended the hearing for the Landlord, I find that they are not entitled to an Order of Possession in relation to the One Month Notice dated January 1, 2021.

Conclusion

The Tenant provided insufficient evidence to demonstrate that they served the Landlord with the Application. As such, the Tenant's Application is dismissed with 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: March 08, 2021

Residential Tenancy Branch