



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNRL-S, FFL

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The landlords applied for:

- an order of possession under a One Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55;
- a monetary order for unpaid rent, pursuant to sections 26 and 67;
- an authorization to retain the tenant's security deposit in satisfaction of the monetary order requested, pursuant to section 72; and
- an authorization to recover the filing fee for this application, under section 72.

Both parties attended the hearing. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord affirmed he did not serve the notice of hearing to the respondent in any of the ways described in section 89 of the Act. The tenant stated she received an email from the RTB and learned about this application.

Rule of Procedure 3.1 states:

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].

(emphasis added)

Based on the foregoing, I dismiss the landlords' application with leave to reapply. Leave to reapply is not an extension of timeline to apply.

As the landlords were not successful, they are not entitled to recover the filing fee.

Conclusion

I dismiss the landlords' application for an order of possession, a monetary order and for an authorization to retain the tenant's security deposit with leave to reapply.

I dismiss the landlords' application for an authorization to recover the filing fee without 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 29, 2021

Residential Tenancy Branch