



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNL-4M, LRE, LAT

Introduction

This hearing was convened as a result of the Tenant's Two Applications for Dispute Resolution, made on December 10 and 15, 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;
- an order to cancel a Four Month Notice to End Tenancy;
- an order authorizing the Tenant to change the lock to the rental unit;
- an order to restrict or suspend the Landlord's right to enter.

Preliminary Matters

The parties had a dispute resolution hearing scheduled on March 8, 2021 during which no participants attended. In the decision dated March 9, 2021, the Tenant's Applications were dismissed with leave to reapply. The Tenant applied for a review consideration and was granted a new hearing based on the fact that they were unable to attend the original hearing. On March 18, 2021 the arbitrator granted the Tenant a new hearing and suspended the original decision pending the outcome of this review hearing.

The review hearing was scheduled for 9:30 AM on April 19, 2021 as a teleconference hearing. The Tenant attended the hearing at the appointed date and time. No one appeared for the Landlord. The conference call line remained open and was monitored for 17 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 the Tenant and I were the only persons who had called into this teleconference.

The Tenants stated that she has forwarded the emails she had received from the Residential Tenancy Branch to the Landlord.

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.

The Rules of Procedure 3.5 states that 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 I find that the Tenant has provided insufficient evidence to demonstrate that the Landlord was properly served a copy of the review consideration decision and Notice of Hearing in accordance with the *Act*. As such, I confirm the finding made in the March 9, 2021 decision.

Conclusion

The Tenant has provided insufficient evidence to demonstrate that the Landlord was properly served a copy of the review hearing decision and Notice of Hearing in accordance with the *Act*. The original decision dated March 9, 2021 is confirmed.

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: April 19, 2021

Residential Tenancy Branch