



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, MNDL-S, MNRL-S

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on January 22, 2021 (the “Application”). The Landlord applied as follows:

- For compensation for monetary loss or other money owed
- For compensation for damage
- To recover unpaid rent
- To keep the security deposit

The Landlord appeared at the hearing. The Tenant did not appear at the hearing.

The Application was crossed with Files 351 and 309. At the hearing, the Landlord advised that the Application relates to a different tenant and different tenancy than Files 351 and 309. The tenant on Files 351 and 309 appeared at the hearing. I told the parties I could not hear these matters together as they relate to different tenants and different tenancies. The Landlord sought to deal with the Application first and have the hearing on Files 351 and 309 adjourned to another date. I determined it was appropriate to hear the Application on the date set and adjourn Files 351 and 309 to another date. The tenant on Files 351 and 309 hung up and I proceeded with the Application.

I explained the hearing process to the Landlord who did not have questions when asked. I told the Landlord they were not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Landlord provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence. The

Landlord testified that he sent the hearing access code and file number for the Application to the Tenant by text message. The Landlord had not served the hearing package on the Tenant.

Section 59(3) of the *Residential Tenancy Act* (the “*Act*”) states:

(3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution **must give a copy of the application to the other party within 3 days of making it**, or within a different period specified by the director.

Rule 3.1 of the Rules 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].

The Landlord was required to serve the Tenant with the hearing package. Sending the hearing access code and file number was not sufficient and did not comply with section 59(3) of the *Act* or rule 3.1 of the Rules. Given the Tenant was not served with the hearing package, the Application is dismissed with leave to re-apply. This decision does not extend any time limits set out on the *Act*.

I note that, if the Landlord re-applies, the hearing package will have to be served on the Tenant in accordance with section 89(1) of the *Act* which states:

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 documents];
- (f) by any other means of service provided for in the regulations.

Conclusion

The Application is dismissed with leave to re-apply. This decision does not extend any time limits set out on 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 *Act*.

Dated: May 28, 2021

Residential Tenancy Branch