



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CEDAR SPRINGS RV AND MOBILE HOME
PARK and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, FFT

Introduction

On August 3, 2021, the Tenant filed an Application for Dispute Resolution under the Manufactured Home Park Tenancy Act ("the *Act*") for an expedited hearing requesting an order for the Landlord to make emergency repairs to the rental property and for the recovery of the filing fee for this application. The matter was set for a conference call.

The Tenant attended the hearing and was affirmed to be truthful in their testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The *Act* and the Rules of Procedure required that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing documents for the expedited hearing within one day. Section 10.3 of the Rules of Procedure states the following:

10.3 Serving the notice of dispute resolution proceeding package

The applicant must, within one day 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:

- the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- the Respondent Instructions for Dispute Resolution;
- an Order of the director respecting service;
- the Expedited Dispute Resolution Process Fact Sheet (RTB-114E) provided by the Residential Tenancy Branch; and

- evidence submitted to the Residential Tenancy Branch online or in person, or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 10.2 [Applicant's Evidence Relating to an Expedited Hearing].

The Tenant testified that they had not served the Landlord with the Notice of Hearing documents as they had not received the email from the Residential Tenancy Branch sent to them on August 16, 2021, containing the Notice of Dispute Resolution Hearing documentation. The Tenant requested an adjournment in order to receive and to serve the Notice of hearing documents as required.

The Tenant testified that they were currently out of the province and that they could serve the new Notice of Dispute Resolution Hearing documentation when they got back if the Residential Tenancy Branch made sure that they received the documents this time. The Tenant first testified that they would be back in the province in a month and then changed their testimony, testifying that they would be back in 10 days.

When asked by this Arbitrator, the Tenant testified that they had received the Residential Tenancy Branch emails sent to them on August 3, 2021, and September 6, 2021, and confirmed that the Residential Tenancy Branch did have the correct email address for this applicant.

I have reviewed the applicant's file for these proceedings and confirm that the Residential Tenancy Branch recorded that the Notice of Dispute Resolution Hearing documentation had been sent to the Tenant at the correct email address on August 16, 2021.

When asked, the Tenant testified that they made no effort to contact the Residential Tenancy Branch to follow up on the Notice of Dispute Resolution Hearing documentation before the date of these proceedings.

When this Arbitrator advised the Tenant that if these proceedings were adjourned, the new Notice of Dispute Resolution Hearing documentation would be created within three business days and that this new document had to be served within one day of being created, and that the service requirements, for the adjournment could not be delayed until they returned to the province; the Tenant then became hostile, argumentative, and disrespectful towards this Arbitrator. This Arbitrator was forced to mute the Tenant's phone line in order to regain control of these proceedings.

Based on the Tenant's testimony, I am not satisfied that the Tenant would be able to serve the new Notice of Dispute Resolution Hearing documentation in accordance with the Act. Therefore, I find that an adjournment would be inappropriate in these circumstances.

I dismiss the Tenant's application for an order for the Landlord to make emergency repairs to the rental property, with leave to reapply.

Conclusion

The Tenant's application for an order for the Landlord to make emergency repairs to the rental property is dismissed with leave to reapply.

The Tenant's application for the recovery of the filing fee for this application is dismissed 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 *Manufactured Home Park Tenancy Act*.

Dated: September 9, 2021

Residential Tenancy Branch