



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RR, RP, LRE, OLC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for: a monetary order for damage or compensation of \$7,000.00 under the Act; an Order to reduce the rent by \$3,000.00 for repairs, services or facilities agreed upon but not provided; an Order for repairs to the unit, site or property, having contacted the landlord in writing to make repairs, but they have not been completed; to suspend or restrict the Landlord's right to enter; and for an Order for the Landlord to Comply with the Act or tenancy agreement.

The Tenant and the Landlord, D.H., appeared at the teleconference hearing. At the onset of the hearing, the Tenant requested that the proceeding be adjourned. She said that she has been suffering from debilitating depression and anxiety, and she said she is not capable of participating in the hearing properly.

I asked the Landlord if he opposed the adjournment, and he said that a more pressing issue is that the Tenant has not served either Respondent with her evidence that she submitted to the Residential Tenancy Branch. The Tenant acknowledged that she has not done so. The Parties agreed that the Tenant had served the Landlords with the Notice of Hearing documents, without the evidence, on May 20, 2021 in person to the Landlord, L.U.

I advised her that as an applicant, she was required to serve these documents to both Respondent in this dispute resolution proceeding, pursuant to the Act and the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules").

I reproduce the relevant Rules below. The requirements within these Rules are consistent with the principles of natural justice and administrative fairness, with which administrative hearings, such as this, must be conducted.

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].

[underlining emphasis added]

There may be some evidence on which the applicant wants to rely that is not available at the time the applicant applies to the RTB for dispute resolution. The applicant may submit this evidence to the RTB and serve it on the respondent(s), as soon as possible, but not more than 14 days before the hearing, as provided under Rule 3.14.

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing. In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

[underlining emphasis added]

I note that the Tenant submitted all of her evidence to the RTB at the same time that she applied for dispute resolution, which was May 10, 2021. I find the Tenant has not provided any reason why she did not serve the Landlords with this evidence at the same time that she served the Notice of Hearing documents on May 20, 2021, or at all.

In light of the above, and pursuant to the Rules and section 62 of the Act, I dismiss the Tenant's Application wholly without leave to reapply.

Conclusion

The Tenant is unsuccessful in her Application, because she failed to serve the Landlords with the evidence that she submitted to the RTB. Pursuant to the Rules noted above and section 62 of the Act, I dismiss the Tenant's Application wholly without leave to reapply.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: September 22, 2021

Residential Tenancy Branch