



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1284969 BC Ltd and [tenant name
suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, OPRM-DR, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord to the tenant;
- a monetary order for unpaid rent; and
- to recover the cost of the filing fee.

This dispute began as an application via the ex-parte Direct Request process and was adjourned to a participatory hearing based on the Interim Decision by an adjudicator with the Residential Tenancy Branch (RTB), dated June 18, 2021, which should be read in conjunction with this decision.

At the participatory hearing, the landlord's agent (landlord) attended the teleconference hearing. The tenant did not attend the hearing. For this reason, service of the Notice of a Dispute Resolution Hearing (Notice of Hearing), application and documentary evidence was considered.

The landlord testified that the tenant "would have been" served with the Notice of Reconvened Hearing, the interim decision, and all other required documents within three days of receiving it. The landlord said that they do not live in the area and someone on their behalf, GJ, served the documents.

Additionally, the landlord's evidence included two pages of the three page 10 Day Notice. It was not clear if the tenant received the full three page Notice, as GJ also served the Notice.

GJ was not in attendance at the hearing.

Analysis and Conclusion

Section 89(1) of the Act requires that the application for dispute resolution, which includes the notice of hearing, must be given, by personally handing the documents to the tenant or by registered mail to the tenant's address where they reside or to their forwarding address.

Section 89(2) of the Act allows service of the application for an order of possession of the rental unit by attaching the documents to a door or other conspicuous place at the address where the tenant resides,

The RTB Rules of Procedure 3.5 states that at the hearing, the applicant must be prepared to demonstrate service to the satisfaction of the arbitrator.

In the case before me, I find that the landlord submitted insufficient evidence to show that the tenant was served the Application for Dispute Resolution as required. The landlord failed to have the person serving the documents attend the hearing or provide an affidavit.

Additionally, I find the landlord failed to provide sufficient evidence that the tenant was served with the complete notice to end tenancy, which was in the approved form, as required by section 52 (e) of the Act. The approved RTB 10 Day Notice is a three-page form, with the third page providing information for tenants.

I therefore find the landlord submitted insufficient evidence that they served the tenant their application for dispute resolution in a manner required by the Act or the 10 Day Notice in the approved form.

Both parties have a right to a fair hearing and the tenant would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore dismiss the landlord's application, with leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

As I have not considered the merits of the landlord's application, I dismiss their request 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: October 4, 2021

Residential Tenancy Branch