



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order for emergency repairs.

The Tenant appeared at the teleconference hearing, but no one attended on behalf of the Landlord. The teleconference phone line remained open for over 30 minutes and was monitored throughout this time. The only person to call into the hearing was the Tenant, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Tenant.

As the Landlord did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Residential Tenancy Branch ("RTB") Rule of Procedure ("Rules") 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant testified that she did not serve the Landlord with the Notice of Hearing documents provided to her by the RTB on September 15, 2021. The Tenant said that she had a virus on her phone and that she had to delete everything from it, however, she did not call the RTB for a second copy of these documents to be served on the Landlord. The Tenant said she told the Landlord about the hearing and sent him a letter with the details; however, I find that this is not the same as serving the other Party with the Notice of Hearing documents and the Tenant's evidence. As such, I must dismiss the hearing with leave to reapply.

The Tenant will reapply for a new hearing, and I advised her that she can also apply for monetary compensation for the costs she is incurring, because she said the Landlord has turned off the power to her suite.

For the benefit of both Parties, I reproduce the relevant Rules of Procedure for Expedited hearings, such as this. The requirements set out in these Rules are consistent with the principles of natural justice and administrative fairness, with which

administrative hearings, such as this, must be conducted. Applicants and Respondents should pay close attention to these Rules.

10.2 Applicant's evidence for an expedited hearing

An applicant must submit all evidence that the applicant intends to rely on at the hearing with the Application for Dispute Resolution.

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].

10.4 Respondent's evidence for an expedited hearing

Copies of all of the respondent's available evidence must be submitted to the Residential Tenancy Branch online through the Dispute Access Site or directly to the Residential Tenancy Branch Office or through a Service BC Office. The respondent's evidence must be served on the other party in a single complete package.

10.5 Time limit for respondent's evidence

The respondent must ensure evidence they intend to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible and at least two days before the hearing.

10.6 Late evidence

If a piece of evidence is not available when the applicant or respondent submits and serves their evidence, the arbitrator will apply Rule 3.17.

10.7 Amending an application for an expedited hearing

An application for an expedited hearing may only be amended at the hearing. Requests to amend an application made prior to the hearing will be denied.

If you need any of this explained further, please don't hesitate to call the RTB office and speak with an information officer for clarification of any residential tenancy matter.

In light of the above, I dismiss the Tenant's Application with 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 07, 2021

Residential Tenancy Branch