



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1248969 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act"), for:

- an order of possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 11 minutes. The landlord's agent TB ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's witness GJ attended the hearing and was not excluded from the outset, as the landlord confirmed that he was only a witness regarding service of documents.

This hearing began at 11:00 and ended at 11:11 a.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, the landlord's witness, and I were the only people who called into this teleconference.

The landlord confirmed that she was the property manager for the landlord company named in this application and that she had permission to speak on its behalf. She stated that the landlord company owns the rental unit, and she confirmed the rental unit address during this hearing. She provided an email address for me to send a copy of my decision to the landlord after this hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“*Rules*”) does not permit recording of this hearing by anyone.

I explained the hearing process to the landlord. She had an opportunity to ask questions. She did not make any adjournment or accommodation requests.

I questioned the landlord as to how and when she served the landlord’s application for dispute resolution hearing package to the tenant. The landlord stated that the tenant was served with the landlord’s notice to end tenancy on May 22, 2021. The landlord’s witness confirmed this information.

I questioned the landlord and her witness again about service of the landlord’s application, not the notice to end tenancy. The landlord said that she did not know the date or method of service. She said that she was given this file at the last minute and she was pursuing RTB applications against three different tenants. The landlord’s witness said that he did not serve the landlord’s application to the tenant and he does not know who did or when they did.

I informed the landlord that this application was filed on July 14, 2021. The notice of hearing for this application is dated July 26, 2021.

I find that the landlord did not serve the tenant with the landlord’s application, as required by section 89 of the *Act* and Rule 3.1 of the RTB *Rules*. The landlord provided a date of May 22, 2021, which is prior to the notice of hearing date of July 26, 2021. The landlord and her witness were given ample time of 11 minutes during this hearing in order to look up information and to provide the correct date and method of service.

I notified the landlord that the landlord’s application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed her that the landlord could file a new application and pay a new filing fee, if the landlord wants to pursue this matter further. The landlord confirmed her understanding of same.

Conclusion

The landlord’s application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord’s application is dismissed 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: November 15, 2021

Residential Tenancy Branch