



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Management Ltd. and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes RPP

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an order for the Landlord to return the Tenant's personal property.

The Tenant and an agent for the Landlord, J.C. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Early in the hearing, the Tenant said that he served the Notice of Hearing package to the Landlord on September 21, 2021. However, RTB records show that the Tenant did not apply for dispute resolution until September 25, 2021, and that the RTB did not send him the Notice of Hearing package to be served on the Landlord until October 4, 2021. Accordingly, I find that the Tenant could not have served the Landlord with these documents on September 21, 2021. When these points were raised in the hearing, the Tenant was unable to provide an alternate date of service of the Notice of Hearing package. Based on the evidence before me on this matter, I find it more likely than not that the Tenant did not, in fact, serve the Landlord with the Notice of Hearing documents, as required under the Act and Rules.

The Parties indicated that they have had other matters before the RTB, including other hearings on November 4, 2021, and November 25, 2021. The Tenant expressed confusion about for which application he served which documents. The Agent said that

the only thing the Tenant served to the Landlord for this proceeding was the instructions for applying for dispute resolution, rather than the Notice of Hearing package.

Based on the evidence before me, I find on a balance of probabilities that the Tenant failed to serve the Landlord with the required documents for this proceeding.

The relevant Rules in this regard are reproduced 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 an 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.

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, and pursuant to section 62 of the Act, **I dismiss the Tenant's**

Application with leave to reapply.

During the hearing, the Parties discussed the Tenant's concern about accessing his personal possessions in the main locker room and the bike locker room of the residential property. He also said the Landlord will not give him a key to his mail box, and that the Landlord simply tells the Tenant to ask for the mail and any belongings in the locker rooms.

The Parties participated in another hearing on November 4, 2021 regarding the status of the tenancy. Regardless of whether the tenancy continues or not, further to the other arbitrator's decision, **the Agent is cautioned** to provide the Tenant with access to his mail and his personal possessions, regardless of the amount of rent the Tenant may owe the Landlord. Further, during the hearing, the Agent commented on negative things that other people had told him about the Tenant; the Agent indicated that these comments contributed to the reasons the Agent has restricted the Tenant's access to parts of the residential property, including locker rooms and the mailbox. The Agent is urged to remember that a person is innocent until proven guilty in a court of law, and that a landlord is not authorized to prevent a tenant from accessing the tenant's personal property or mail, based on some rumours about the tenant.

Conclusion

The Tenant is unsuccessful in his Application, as he failed to serve the Landlord with the Notice of Hearing package pursuant with the Rules. As such, the 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 08, 2021

Residential Tenancy Branch