



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL MNDC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing was held on December 2, 2021. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss under the Act;
- an order of possession based off a 2-Month Notice to End Tenancy for Landlord's Use; and,
- to recover the filing fee from the Tenant for the cost of this application.

The Tenant attended the hearing. The Landlord was not present at the hearing. A.G. stated that she is an agent for the buyer of the property, and the Landlord named on this application is the seller of the property. A.G. confirmed she is not an agent for the Landlord named on this application, only for the new owner, and current Landlord, who was not named on this application. A.G. was aware of some of the service particulars for this application, and explained that the Tenant was served with this Notice of Dispute Resolution Proceeding at 7:00 pm last evening, December 1, 2021. The Tenant acknowledged getting this hearing package, and evidence, but took issue with how late he was served with this package.

After speaking with the Tenant at the hearing, I find it would be prejudicial to allow the Landlord's application to proceed today given the timelines with respect to service of the hearing documentation and evidence was blatantly disregarded.

Rule of Procedure 3.1 states the following:

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].

I find that by waiting over 3 months after applying to serve the tenant, that this impacted his ability to understand and respond to the issues in the application. I find the manner in which the Landlord served the Tenant is prejudicial. As such, I dismiss the Landlord's application, in full, with leave to reapply.

This decision does not change or extend any statutory timelines under the Act.

Conclusion

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: December 02, 2021

Residential Tenancy Branch