



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Rent it Furnished
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, MNRL-S, MNDL-S, MNDCL-S

Introduction

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

- a Monetary Order for unpaid rent, pursuant to sections 26 and 67;
- a Monetary Order for damage or compensation, pursuant to section 67;
- a Monetary Order for damage, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. Landlord Z.A. and an agent for landlord R.I.F. (the "agent") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 Landlord Z.A., an agent for landlord R.I.F and I were the only ones who had called into this teleconference.

Landlord R.I.F. testified that the tenant was not served with this application for dispute resolution because the landlords have been unable to locate him.

The agent requested an adjournment pursuant to Rule 7.8 to of the Residential Tenancy Branch Rules of Procedure (the "Rules") to allow the landlord additional time to serve the tenant.

Rule 7.8 of the Rules states that at any time after the dispute resolution hearing begins, the arbitrator may adjourn the dispute resolution hearing to another time.

Rule 3.1 of the Rules states:

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].

The Notice of Dispute Resolution Proceeding Package was made available to the landlords on August 17, 2021. At that time the landlords were cautioned that if they did not serve the tenant within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, their application may be dismissed. I find that the landlords have not served the tenant with the documents set out in Rule 3.1 of the Rules within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch. The landlord's application for dispute resolution is therefore dismissed **with leave to reapply**.

I find that an adjournment would not alter the failure of the landlords to serve the tenants in accordance with Rule 3.1 and would therefore not likely result in a resolution. I find that an adjournment is not required to provide a fair opportunity for the landlord to be heard as the landlord is at liberty to re-file this claim against the tenant and to serve the

tenant with the required documents in the required timelines established by the Rules. I note that the limitation period set out in section 60 of the *Act*, has not yet expired, thus allowing the landlord time to re-file. I find that to adjourn this hearing would prejudice the tenant who has not been afforded the opportunity to respond to the claims made against him or to the landlords' request for an adjournment.

Conclusion

The landlord's application for dispute resolution 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: February 14, 2022

Residential Tenancy Branch