



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, ET

Introduction

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

- an early end to the tenancy and an order of possession pursuant to section 56;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

All parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset, I advised the parties of rule 6.11 of the Rules of Procedure (the "**Rules**"), which prohibits participants from recording the hearing. The parties confirmed that they were not recording the hearing. I also advised the parties that pursuant to Rule 7.4, I would only consider written or documentary evidence that was directed to me in this hearing.

The landlord testified that he and a friend attempted to serve the tenant the Notice of Dispute documents in person, but the tenant refused to accept the documents. When the tenant refused the documents, the landlord then stated the notice of dispute resolution form and supporting evidence package was posted on the door of the rental unit on December 17, 2021. The landlord stated that a witness was with him when the notice was posted. I explained to the landlord that the notice for this hearing was sent to him on January 11, 2022, so could not have been posted on the door on December 17, 2021. The landlord kept referencing the December 17, 2021, service of a 10 Day Notice.

I attempted several times to re-focus the landlord's testimony to confirm that the Dispute Notice sent to the landlord on January 11, 2022, was served as required by law. Despite extensive questioning, I was unable to ascertain if the landlord was aware of the Notice of January 11, 2022, if he was aware of the requirement to serve the Notice, and/or if he served the Notice and all evidence related to the "urgent application about a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord" to the tenant.

The tenant provided affirmed testimony that he never received the Notice of Dispute for this hearing, and it was only coincidental that he found out about the hearing today, when he called the Residential Tenancy Branch to follow up on the dispute hearing of January 20, 2022. The person the tenant spoke with happened to mention that there was a 1:30 hearing today and provided him with the conference call information.

Based on the affirmed oral testimony of the parties there is insufficient evidence available to conclude that the tenant, on a balance of probabilities, was served with the Notice of Dispute

and evidence package for the hearing scheduled January 31, 2022 at 1:30 pm. In accordance with sections 89 and 90 of the Act, I find that:

- 1) the tenant has not been properly served with the notice of dispute resolution package which pertain to the landlord's application for an early end to tenancy and an order of possession.

Accordingly, I dismiss the landlord's application for an early end to tenancy and order of possession pursuant to s. 56, without leave to reapply.

If there is an undisputed 10 Day Notice, the landlord can apply for a Direct Request. I provided the phone numbers for Information Services and a link to the Public Page below.

604-660-1020 (Lower Mainland)
250-387-1602 (Victoria)
1-800-665-8779

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/apply-online/direct-request?keyword=direct&keyword=request&keyword=process>

Conclusion

The landlord's application for an early end to the tenancy and an order of possession pursuant to section 56 is dismissed, without leave to reapply.

As the landlord was unsuccessful in his application, he is not entitled to reimbursement of the \$100.00 filing fee.

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 1, 2022

Residential Tenancy Branch