



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-MT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on December 17, 2021 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property; and
- more time to dispute a notice to end tenancy.

The Landlord, the Tenant, and the Tenant's Advocate P.B. attended the hearing at the appointed date and time. At the start of the hearing, the Tenant confirmed serving the Landlord with the Notice of Hearing. The Landlord confirmed receipt on January 10, 2022. As such, I find that the above-mentioned document was sufficiently served pursuant to Section 71 of the *Act*. Both parties confirmed that neither of them provided any documentary evidence in preparation for the hearing.

I noted that I had not been provided a copy of the notice to end tenancy the Tenant sought to cancel. The Tenant acknowledged that she did not provide the Notice to the Residential Tenancy Branch at the time of filing or at any other time, claiming she did not know she had to provide the documents. The Landlord further acknowledged that he did not provide a copy of the Notice in support of his interest for seeking an order of possession.

Section 59 provides that an Application for Dispute Resolution must include the full particulars of the dispute that is to be the subject of the dispute resolution proceeding. Rules 2.5 and 3.1 require that a tenant disputing a notice to end tenancy must provide a copy of the notice to end tenancy they seek to dispute at the time of filing the Application for Dispute Resolution and serve it upon the respondent along with the

proceeding package. These requirements are in keeping with the principles of natural justice and intended to ensure a fair proceeding.

Below, I have reproduced Rule 2.5 for the parties' reference:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, the applicant should submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;
- a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [Consideration of new and relevant evidence].

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.

[My emphasis underlined]

If a document is not available at the time of filing, an applicant may submit the document as soon as possible but not later than 14 days before the hearing, as provided under Rule 3.14.

In seeking to cancel a notice to end tenancy, I can think of no other document that is more relevant than the notice to end tenancy. The Tenant did not provide a copy of the Notice to End Tenancy she seeks to cancel when she filed, at any other time, for my review or with the hearing package she sent to the Landlord. The Tenant did not provide a reason for not providing the Notice to End Tenancy other than she stated she did not know she had to which is not a basis for not complying with the requirements of the Act or the Rules of Procedure. Therefore, I find the Tenant's actions, or lack thereof, to be a violation of the requirements of section 59 of the Act and Rules 2.5 and 3.1 of the Rules of Procedure.

I note that Section 55 of the Act states that in order for a Landlord to be granted an order of possession, the Landlord's Notice to End Tenancy must comply with Section 52 of the Act relating to form and content.

Section 52 of the Act States; In order to be effective, a notice to end a tenancy must be in writing and must;

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,*
- (d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and*
- (e) when given by a landlord, be in the approved form.*

As neither party provided a copy of the Notice to End Tenancy, I am unable to determine if the Notice meets the requirements of Section 52 of the *Act*. In light of the above, I dismiss the Tenant's Application to dispute Notice to End Tenancy. I do not provide the Landlord with an Order of Possession as provided under section 55(1) of the Act as I do not have a copy of a Notice to End Tenancy before me and I am unable to verify that the notice complies with the form and content requirements of the *Act*. The Landlord is at liberty to file his own Application for Dispute Resolution to seek an Order of Possession if he is of the view he is entitled to one.

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: March 29, 2022

Residential Tenancy Branch