



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") to cancel a One Month Notice to End Tenancy for Cause (the "**Notice**") pursuant to section 47.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:11 am in order to enable the tenant to call into the hearing scheduled to start at 11:00 am. The landlord attended the hearing and was 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 Dispute Resolution Proceeding. I used the teleconference system to confirm that the landlord and I were the only ones who had called into the hearing.

The landlord testified that she was not served with any notice of this hearing by the tenant. She testified that she only became aware of this hearing after calling the Residential Tenancy Branch (the "**RTB**") regarding the status of an application of her own (seeking an order of possession for non payment of rent) a few weeks ago.

RTB Rule of Procedure 3.1 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 tenant received the notice of dispute resolution proceeding package from the RTB on February 7, 2022. As such she had until February 10, 2022 to serve this package (as well as the other document set out above) on the landlord. She did not do this by that deadline, or at all. As such, I find that the landlord was deprived of an opportunity to prepare for this hearing or submit evidence in response to this application.

Accordingly, the hearing cannot proceed. I dismiss the tenant's application 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: April 4, 2022

Residential Tenancy Branch