



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order of \$1,489.07 for damages for the Landlord; a monetary order of \$800.00 for damage or compensation under the Act, retaining the security deposit to apply to these claims; and to recover the \$100.00 cost of her Application filing fee.

The Landlord appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 45 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that she served the Tenant with the Notice of Hearing documents by Canada Post registered mail, and in the hearing, she provided a Canada Post tracking number as evidence of service. After the hearing I checked the number that she gave me to determine the date on which it was sent; however, the Canada Post tracking website did not have any record of the number. I checked the number again, in case of a transcription error, but it was the number that the Landlord gave me, and I still did not obtain a result.

The Rules are a codification of the common law rules for administrative fairness and natural justice. It is important that each respondent to an administrative proceeding be properly served.

Rule 3.1 states that the applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the RTB, 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].

[underlining emphasis added]

However, in the case before me, I find there is insufficient evidence to establish on a balance of probabilities that service was effected on the Respondent. In case the registered mail tracking number was miscommunicated between the Landlord and me, I will dismiss this matter **with** leave to reapply, rather than without leave, which is the normal protocol. As such, I dismiss the Landlord's Application with leave to reapply, pursuant to sections 62 and 64 of the Act.

This Decision does not affect any relevant timelines in place in the Act.

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: June 15, 2022

Residential Tenancy Branch