



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenants under the *Residential Tenancy Act* (the Act), seeking:

- Compensation related to a Notice to End Tenancy for Landlord's Use of Property; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Tenant A.B., who provided affirmed testimony. No one attended for the Purchaser.

Section 59 (3) of the Act states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making the application, or within a different period specified by the director. Rule 3.1 of the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) states that the applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch (the Branch), serve each respondent with copies of all the following:

- a) the Application for Dispute Resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Branch;
- c) the dispute resolution proceeding information package provided by the Branch; and
- d) any other evidence submitted to the 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].

Rule 3.14 states that documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Branch not less than 14 days before the hearing and rule 3.5 states that the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding package and all evidence as required by the *Act* and the Rules of Procedure.

In the hearing the Tenant acknowledged that the Purchaser, who is the Respondent, was not served with either the Notice of Dispute Resolution Proceeding package or the documentary evidence before me on behalf of the Tenants.

The opportunity to know the case against you and the opportunity to be heard are fundamental to the dispute resolution process. As the Purchaser was not served with the Application, Notice of Hearing, or the evidence before me, I find that they did not have a fair opportunity to know the case against them or to properly prepare and provide evidence in their defense. Further to this, I find that proceeding with the hearing as scheduled and rendering a decision in relation to the substantive matters claimed in the Application, especially in the absence of the Purchaser/Respondent, would be a breach of the *Act*, the Rules of Procedure, and the principles of natural justice. As a result, the Application seeking compensation related to a Notice to End Tenancy for Landlord's Use of Property is therefore dismissed with leave to reapply. The Tenants' Application seeking recovery of the filing fee for this Application is dismissed without 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: June 1, 2022

Residential Tenancy Branch