



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **TT: CNR, RR, RP, PSF, RPP, OLC, FFT**
 LL: OPR-DR, MNR-DR, FFL

Introduction

This hearing dealt with two applications for dispute resolution pursuant to the *Residential Tenancy Act* (the “Act”). The Tenant made one application (“Tenant’s Application”) for:

- cancellation of a Ten Day Notice to End Tenancy for Unpaid Rent and/or Utilities dated March 4, 2022 (the “10 Day Notice”) pursuant to section 46;
- an order to allow the Tenant to reduce the rent for repairs, services or facilities agreed upon but not provided by the Landlords pursuant to section 65;
- an order requiring the Landlords to complete repairs to the rental unit pursuant to section 32;
- an order for the Landlords to provide services or facilities required by the tenancy agreement or law pursuant to section 65;
- an order for the Landlords to return the Tenant’s personal property pursuant to section 65;
- an order for the Landlords to comply with the Act, *Residential Tenancy Regulations* and/or tenancy agreement pursuant to section 65; and
- authorization to recover the filing fee of the Tenant’s Application from the Landlords pursuant to section 72.

The Landlords made one application (“Landlords’ Application”) for:

- an order of possession for non-payment of rent pursuant to sections 46 and 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee of the Landlords’ Application from the Tenant pursuant to section 72.

The Tenant did not attend this hearing scheduled for 1:30 pm although I left the teleconference hearing connection open for the entire hearing, which ended at 1:49 pm, in order to enable the Tenant to call into this teleconference hearing. One of the two Landlords (“DS”) 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 for the Tenant’s Application. I also confirmed from the teleconference system that DS and I were the only ones who had called into this teleconference.

Preliminary Matter – Service of Tenant’s Notice of Dispute Resolution Proceeding

DS stated the Tenant did not serve the Notice of Dispute Resolution Proceeding (“Tenant’s NDRP”) for the Tenant’s Application on the Landlords. DS stated the Tenant abandoned the rental unit and the Landlords have taken possession of the rental unit. Rule 3.1 of the *Residential Tenancy Branch Rules of Procedure* (“Rules”) 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].

See Rule 10 for documents that must be served with the Notice of Dispute Resolution Proceeding Package for an Expedited Hearing and the timeframe for doing so.

The Tenant did not serve the Tenant's NDRP on the Landlords in accordance with the provisions of Rules 3.1. As the Tenant has abandoned the rental unit, all of the claims in the Tenant's Application are now moot. As such, I dismiss the Tenant's Application without leave to reapply.

Preliminary Matter – Service of Landlords' Notice of Dispute Resolution Proceeding

DS testified the Landlords served the Notice of Dispute Resolution Proceeding ("Landlords' NDRP") for the Landlords' Application by regular mail.

Subsection 89 of the Act states:

- 89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:
- (a) by leaving a copy with the person;
 - (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
 - (c) *by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
 - (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
 - (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
 - (f) by any other means of service provided for in the regulations.

[emphasis in italics added]

The Landlords did not serve the Tenant with the Landlords' NDRP using any one of the methods permitted by section 89(1) of the Act. As the Tenant did not attend the hearing, I was unable to determine if the Tenant received the Landlords' NDRP. As the

Landlords did not comply with section 89(1), I dismiss the Landlords' Application with leave to reapply for any rent owing by the Tenants to the Landlord.

Conclusion

The Tenant's Application is dismissed in its entirety without leave to reapply.

The Landlords' Application is dismissed with leave 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 20, 2022

Residential Tenancy Branch