



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      AAT, RPP, LRE, OLC, FFT

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act"), for:

- an order to allow access to or from the rental unit for the tenants or the tenants' guests, pursuant to section 70;
- an order requiring the landlord to return the tenants' personal property, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit, pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 12 minutes. The two tenants, tenant CS ("tenant") and "tenant LC," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 11:00 a.m. and ended at 11:12 a.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the two tenants and I were the only people who called into this teleconference.

The two tenants confirmed their names and spelling. The tenant provided the rental unit address. Tenant LC provided her email address for me to send this decision to both tenants after the hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any party. At the outset of this hearing, the two tenants both separately affirmed, under oath, that they would not record this hearing.

I explained the hearing process to the two tenants. They had an opportunity to ask questions. They did not make any adjournment or accommodation requests.

At the outset of this hearing, the tenant confirmed that the tenants vacated the rental unit on April 25, 2022. He said that the tenants only wanted to pursue their claim for a return of their personal property at this hearing.

I informed the tenants that their entire application, except for the return of their personal property and the filing fee, were dismissed without leave to reapply, as the remaining claims relate to an ongoing tenancy only. The tenants confirmed their understanding of same.

#### Preliminary Issue – Service of Tenants’ Application

The tenant testified that the tenants did not serve the landlord with the tenants’ application for dispute resolution hearing package. He said that he thought the RTB would serve the landlord directly and it was the tenants’ mistake.

Section 59(3) of the *Act* states the following:

##### *Starting Proceedings*

*59 (3) Except for an application referred to in subsection (6), 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 it, or within a different period specified by the director.*

Rule 3.1 of the RTB *Rules* states, in part:

##### *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 tenants were provided with an application package from the RTB, including instructions regarding the hearing process. The tenants were provided with a document entitled "Notice of Dispute Resolution Proceeding" ("NODRP") from the RTB, after filing their application, which contains the phone number and access code to call into this hearing.

The NODRP states the following at the top of page 2, in part (my emphasis added):

***The applicant is required to give the Residential Tenancy Branch proof that this notice and copies of all supporting documents were served to the respondent.***

- It is important to have evidence to support your position with regards to the claim(s) listed on this application. For more information see the Residential Tenancy Branch website on submitting evidence at [www.gov.bc.ca/landlordtenant/submit](http://www.gov.bc.ca/landlordtenant/submit).*
- Residential Tenancy Branch Rules of Procedure apply to the dispute resolution proceeding. View the Rules of Procedure at [www.gov.bc.ca/landlordtenant/rules](http://www.gov.bc.ca/landlordtenant/rules).*
- Parties (or agents) must participate in the hearing at the date and time assigned.*
- The hearing will continue even if one participant or a representative does not attend.*
- A final and binding decision will be sent to each party no later than 30 days after the hearing has concluded.*

I find that the tenants did not serve the landlord with the tenants' application, as required by section 59(3) of the *Act* and Rule 3.1 of the RTB *Rules*, and as stated on the NODRP that was provided by the RTB to the tenants with their application package.

I informed the tenants that the RTB does not serve the respondent landlord party with any application documents, as it is the applicant tenants' requirement to do so, as noted above.

I notified the tenants that their application for a return of their personal property, was dismissed with leave to reapply. I informed them that their application to recover the \$100.00 filing fee was dismissed without leave to reapply. I notified them that they could file a new application, if they want to pursue their claim for a return of their personal property, in the future. The tenants confirmed their understanding of same.

### Conclusion

The tenants' application for an order requiring the landlord to return the tenants' personal property, is dismissed with leave to reapply.

The remainder of the tenants' 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: July 07, 2022

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Residential Tenancy Branch