



# 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 the tenant's application pursuant to the *Residential Tenancy Act* ("Act"), for:

- a monetary order of \$6,000.00 for compensation because the landlord ended the tenancy and has not complied with the *Act* or used the rental unit for the stated purpose, pursuant to section 51; and
- authorization to recover the \$100.00 filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 12 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:42 p.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 tenant and I were the only people who called into this teleconference.

The tenant confirmed her name and spelling. She provided the rental unit address. She provided her email address for me to send this decision to her 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 tenant affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the tenant. I informed her that I could not provide legal advice to her and that she could hire a lawyer for same. I informed her that my role as an Arbitrator was to make a decision regarding this application. She had an opportunity to ask questions, which I answered. She did not make any adjournment or accommodation requests.

#### Preliminary Issue – Service of Tenant's Application

The tenant testified that she did not serve the landlord with the tenant's application for dispute resolution hearing package. She said that she thought the RTB would serve the landlord directly.

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 tenant was provided with an application package from the RTB, including instructions regarding the hearing process. The tenant confirmed receipt of a document entitled “Notice of Dispute Resolution Proceeding” (“NODRP”) from the RTB, after filing her application, which she said she had in front of her during this hearing. The NODRP contains the phone number and access code to call into this hearing.

The tenant confirmed that the NODRP states the following at the top of page 2, in part (my emphasis added, which was read aloud by me and the tenant during this hearing):

***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 informed the tenant that, according to the online RTB dispute system, she was sent an email by the RTB on July 19, 2022, to serve the landlord with her application by January 22, 2022. The tenant agreed that she called the RTB on July 22, 2022, to request another copy of the NODRP, because she lost it.

I find that the tenant did not serve the landlord with the tenant’s 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 tenant with her application package.

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

I notified the tenant that her application was dismissed with leave to reapply, except for the \$100.00 filing fee, which is dismissed without leave to reapply. I notified her that she could file a new application and pay a new filing fee, if she wants to pursue her monetary claim for \$6,000.00 in the future. I informed her that her current application file would be closed, and her evidence would not be transferred to any new future application. The tenant confirmed her understanding of same.

The tenant stated that she was aware of a two-year limitation date to file her application, as per her conversation with the RTB. I informed her that she could consult the *Act* and retain a lawyer for legal advice regarding limitation dates if she wanted to do so.

### Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant's application is dismissed 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: August 22, 2022

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Residential Tenancy Branch