



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNL-4M FFT

Introduction

This hearing was convened as a result of the Tenant's application for dispute resolution ("Application") pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a Four Month Notice to End Tenancy for Demolition or Conversion to Another Use dated March 11, 2022 ("4 Month Notice"), pursuant to section 49; and
- authorization to recover the filing fee for the Application from the Landlord.

The Landlord and Tenant attended the hearing. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure* ("RoP"). The parties were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The Tenant stated he served the Notice of Dispute Resolution Proceeding and his evidence ("NDRP Package") on the Landlord by email on May 5, 2022. Although the Tenant did not have the Landlord's consent to service of documents pursuant to section 43 of the *Residential Tenancy Regulations*, the Landlord acknowledged he received the NDRP Package by email. As such, I find the NDRP Package was sufficiently served on the Landlord pursuant to section 71(2)(b) of the Act.

The Landlord stated he served most of his evidence on the Tenant by email on April 12, 2022. Although the Tenant did not have the Landlord's consent to service of documents pursuant to section 43 of the *Residential Tenancy Regulations*, the Tenant acknowledged he received the Landlord's evidence served on him by email on April 12, 2022. As such, I find the Landlord's evidence served on the Tenant by email on April 12, 2022 was sufficiently served on the Landlord pursuant to section 71(2)(b) of the Act.

Preliminary Matter – Service of Additional Evidence on Tenant by Landlord

The Landlord stated he served copies of two pictures (“Additional Evidence”) on the Tenant by email on August 21, 2022. The Tenant objected to Landlord’s service of the Additional Evidence on him the day before the hearing. Rule 3.15 of the RoP states:

3.15 Respondent’s evidence provided in single package

Where possible, copies of all of the respondent’s available evidence should be submitted to the Residential Tenancy Branch online through the Dispute Access Site or directly to the Residential Tenancy Branch Office or through a Service BC Office. The respondent’s evidence should be served on the other party in a single complete package.

The respondent must ensure evidence that the respondent intends to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. Except for evidence related to an expedited hearing (see Rule 10), and subject to Rule 3.17, the respondent’s evidence must be received by the applicant and the Residential Tenancy Branch not less than seven days before the hearing. See also Rules 3.7 and 3.10.

The Landlord served the Tenant with the Additional Evidence the day before the hearing. The Landlord did not provide any testimony that the Additional Evidence should be accepted on the basis that it is new and relevant evidence. As such, I find the Additional Evidence to be inadmissible to this proceeding.

Preliminary Matter – Tenancy has Ended

The Tenant stated he vacated the rental unit on June 8, 2022. The Landlord stated the Tenant sent him an email on June 10, 2022 that stated the Tenant had vacated the rental on June 8, 2022. Based on the undisputed testimony of the parties, the tenancy ended before this hearing. As such, a determination of whether the 4 Month Notice should be cancelled is now unnecessary. Based on the foregoing, I dismiss the Tenant’s claim for cancellation of the 4 Month Notice.

As the Tenant’s claim for cancellation of the 4 Month Notice has not been successful, I find the Tenant is not entitled to recover the filing fee for the Application from the Landlord.

Conclusion

The Application is dismissed in its entirety 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: August 22, 2022

Residential Tenancy Branch