



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an early termination of the tenancy and an order of possession – as the Landlord claims that the Tenant poses an immediate and severe risk to persons and/or property; and to recover the \$100.00 cost of his Application filing fee.

The Tenant and the Landlord appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. One witness for the Tenant, G.K., was available to provide affirmed testimony in the hearing, but he was not called upon by the Tenant.

During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

In the hearing, the Landlord said that he served the Tenant with the Notice of Hearing documents for this Application by Express Mail on July 27, 2022. However, the Landlord did not provide proof of when these documents were received by the Tenant. The Tenant said he did not receive the Notice of Hearing documents from the Landlord until August 5, 2022. According to our records, the Landlord was emailed the Notice of Hearing documents from the RTB on July 27, 2022.

There are Rules that pertain to Expedited Hearings, of which this is one. I reproduced the relevant Rules below. The requirements within these Rules are consistent with the principles of natural justice and administrative fairness, with which administrative hearings, such as this, must be conducted.

Rule 10 states:

10.3 Serving the notice of dispute resolution proceeding package

The applicant must, **within one day** 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:

- the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- the Respondent Instructions for Dispute Resolution;
- an Order of the director respecting service;
- the Expedited Dispute Resolution Process Fact Sheet (RTB-114E) provided by the Residential Tenancy Branch; and
- evidence submitted to the Residential Tenancy Branch online or in person, or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 10.2 [Applicant's Evidence Relating to an Expedited Hearing].

[emphasis added]

When I asked the Tenant how he was prejudiced by the late service of the Notice of Hearing documents, the Tenant said it affected his work and his personal life. He said: "Being served at the last minute meant I couldn't respond. I have minimal hours off work and it was difficult to get my evidence to the Branch."

The Notice of Hearing documents were made available to the Landlord on July 27, 2022. Pursuant to Rule 10.3, the Landlord had until July 28, 2022, to ensure that these documents were delivered to the Tenant.

I find that the Rules surrounding expedited hearings such of this impose tight service and submission timelines on the Parties. As such, the Respondent had a limited amount of time to respond to the Landlord's documents based on the Rules, as this is an expedited or more accelerated process than that of other hearings; accordingly, I find that to have that time limited even further by the Landlord's late service is inconsistent with administrative fairness and natural justice. As a result, I dismiss this Application without leave to reapply.

If you need any of this explained further, please don't hesitate to call the RTB office and speak with an information officer for clarification of any residential tenancy matter.

In light of the above, I dismiss the Landlord's Application without leave to reapply.

This Decision does not affect other Applications the Parties have filed.

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