



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CRESCENT HOUSING SOCIETY and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNDCT, OLC, RR, RP, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for:

1. a monetary order of \$3,000.00 for damage or compensation under the Act;
2. an Order for the Landlord to Comply with the Act or tenancy agreement;
3. an Order to reduce the rent by \$3,000.00 for repairs, services or facilities agreed upon but not provided;
4. an Order for repairs to the unit or property, having contacted the landlord in writing to make repairs, but they have not been completed; and
5. to recover the \$100.00 cost of his Application filing fee.

The Tenant and an agent for the Landlord, L.T. ("Agent"), 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 was also present and available to be called upon to provide affirmed testimony.

The Tenant said he served the Landlord with his Notice of Hearing documents and evidence on August 2, 2022; however, the Agent said that the Landlord did not receive any documents about this process, until they found out about it from an information officer at the Residential Tenancy Branch ("RTB"). The information officer then emailed all of the Tenant's documents, including the Notice of Hearing to the Agent on September 13, 2022. The Agent asked for the proceeding to be dismissed, because the Tenant did not follow the RTB Rules of Procedure ("Rules") in having failed to serve the Notice of Hearing documents and evidence to the Landlord at least 14 days prior to the hearing.

As the discussion continued, it became clear that the Tenant had complained to the Agent about the issues before me, and he said he would apply for dispute resolution through the RTB; however, I explained to the Tenant, this is not the same as serving the Landlord with the actual Notice of Hearing and evidence at least two weeks prior to the hearing.

I recommended that the Tenant contact the RTB to speak with an Information Officer about any applications in the future, as this may assist him to follow the Rules of Procedure in the dispute resolution process.

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.

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].

[underlining emphasis added]

There may be some evidence on which the applicant wants to rely that is not available at the time the applicant applies to the RTB for dispute resolution. The applicant may submit this evidence to the RTB and serve it on the respondent(s), as soon as possible, but not more than 14 days before the hearing, as provided under Rule 3.14.

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing. In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

[underlining emphasis added]

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 Tenant's Application wholly without leave to reapply, pursuant to section 62 of the Act.

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: September 16, 2022

Residential Tenancy Branch