



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MISSION COMMUNITY SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, MNSD

Introduction

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

- a monetary order of \$334.68 for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to obtain a return of the tenant's security deposit of \$187.00, pursuant to section 38.

The landlord did not attend this hearing, which lasted approximately 11 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 1:41 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 his name and spelling. He provided the rental unit address. He provided his email address for me to send this decision to him 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 participant. At the outset of this hearing, the tenant affirmed, under oath, that he would not record this hearing.

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

Preliminary Issue – Service of Tenant’s Application

The tenant testified that he personally served the landlord with the tenant’s application for dispute resolution hearing package. He said that he did not know the date of service, as it could have been the end of January or the beginning of February.

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 his application, which he said he had in front of him during this hearing. The NODRP 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, which was referenced by me 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.*
- *Residential Tenancy Branch Rules of Procedure apply to the dispute resolution proceeding. View the Rules of Procedure at 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.*

According to the online RTB dispute system, the tenant was sent an email by the RTB on February 8, 2022, to serve the landlord with his application by February 11, 2022.

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 his application package. I informed the tenant that he did not provide a date of service or any documentary or digital evidence to prove service, with his application.

I notified the tenant that his entire application was dismissed with leave to reapply. I notified him that he could file a new application, pay a filing fee or apply for a fee waiver, provide evidence, and serve the application and all evidence to the landlord, with proof of service, if he wants to pursue his monetary claim in the future. The tenant confirmed his understanding of same.

Conclusion

The tenant's entire 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: September 08, 2022

Residential Tenancy Branch