



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied on February 23, 2022 for compensation from the landlords related to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) and to recover the cost of the filing fee.

At the beginning of the hearing, the landlords were present. 8 minutes after the hearing began, the tenant joined the hearing. All parties were affirmed.

When the tenant joined, she was asked questions about evidence, as none had been submitted with her application or at all since the time of filing on February 23, 2022.

The tenant said she sent evidence to the landlord on October 5, 2022, by registered mail, without any proof of the mailing submitted in evidence. The landlords said they did not receive any mail or evidence from the tenant.

No evidence was filed with the Residential Tenancy Branch (RTB) for this hearing on this application by the tenant.

The landlord submitted two documents. One document stated that the tenant filed an application last year for the same dispute, but that it was withdrawn without notice to them.

Analysis and Conclusion

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) sets out requirements for the dispute resolution process. Rule 1.1 states that the “objective of the Rules of Procedure is to ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants”.

Rule 2.5 requires applicants to the extent possible, submit copies of all documentary and digital evidence to be relied on in the proceeding at the same time as the application is submitted.

Rule 3.14 states that “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”.

Rule 3.17 states in relevant part that “evidence not provided to the other party and the Residential Tenancy Branch directly or through a Service BC Office in accordance with the Act or Rules 2.5 [Documents that must be submitted with an Application for Dispute Resolution], 3.1, 3.2, 3.10.5, 3.14 3.15, and 10 may or may not be considered depending on whether the party can show to the arbitrator that it is new and relevant evidence and that it was not available at the time that their application was made or when they served and submitted their evidence”.

Here, the tenant confirmed that her evidence was not filed with her application and instead it was sent by registered mail to the landlords less than 14 days prior to the hearing. The landlords denied receiving any mail from the tenant and the tenant failed to provide proof the registered mail was sent.

The tenant also had not filed evidence with the RTB and therefore, no evidence was before me for the hearing. I find this shows that no evidence was filed with the tenant’s application or within 14 clear days prior to the hearing.

Although no details or detailed calculations were provided, I determined that the tenant's application related to compensation for having received a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued by the landlord.

The tenant wrote the following:

Landlords did not use property for reasons given upon notice to end tenancy.

For the reasons noted above, I find the tenant submitted insufficient evidence to support her application. Without a copy of the 2 Month Notice, I am not able to determine whether the tenant received a 2 Month Notice or if the Notice met the requirements as to form and content required under the Act. This is important as I could not determine if the tenant was required to vacate the rental unit and would be entitled to monetary compensation relating to a proper 2 Month Notice had the landlords not used the rental unit for the stated purpose.

I find a copy of the 2 Month Notice is vital and necessary evidence in this application and the 2 Month Notice was not before me.

For these reasons, I find the tenant submitted insufficient evidence to support her application, and as a result, I dismiss the tenant's application, 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: October 20, 2022

Residential Tenancy Branch