



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSDS-DR, 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 the return of double the \$525.00 security deposit that he claims the Landlord is holding without cause; and to recover his \$100.00 Application filing fee.

The Tenant and the Landlord appeared at the teleconference hearing. The Landlord said that he was in attendance, because he received an email from the Residential Tenancy Branch ("RTB") reminding him of the hearing. He said he was unaware that there was a hearing, as he never received a hearing package from the Tenant.

The Tenant said that he sent his Notice of Hearing package and evidence to the Landlord via registered mail and email; however, in the hearing he could not make out the tracking number on the faded, smudged receipt.

I advised the Tenant that pursuant to the Rules of Procedure ("Rules"), an applicant is required to demonstrate that the other party was served with these documents. I explained that 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, and that I am bound to apply the Rules in hearings.

Rule 3.5 states:

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

Given the Landlord's attendance at the hearing, his insistence on not having been

served, as well as the Tenant's inability to provide proof of his service of the required documents, I find I must **dismiss this claim without leave to reapply**.

For future reference, I have reproduced another relevant Rule regarding an application for dispute resolution.

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.

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 without leave to reapply**.

This Decision is final and binding on the Parties, unless otherwise provided under the

Act, and 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: November 03, 2022

Residential Tenancy Branch