



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0916294 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNE-MT

Introduction

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 for an order cancelling the One Month Notice to End Tenancy for end of employment and an order extending the time to file an application disputing the Notice issued by the landlord.

At the beginning of the hearing, the landlord's agent was present and was affirmed. The landlord submitted that they were not served with the tenant's Application for Dispute Resolution, evidence, and Notice of Hearing (application package) and only found out about the hearing when sent a courtesy reminder email by the Residential Tenancy Branch (RTB).

While waiting for 10 minutes to allow the applicant to call into the hearing, the landlord said they had not served the tenant with a notice to end the tenancy and additionally, the tenant vacated the rental unit on or about October 24, 2022.

Nearly 10 minutes into the hearing, the tenant called in and was affirmed. The tenant confirmed that she had not served her application package to the landlord as she believed the RTB would do so.

Analysis and Conclusion

Section 59 (3) of the Act states that a person making an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 3.5 states that “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”.

In the case before me, as the tenant confirmed that she did not serve their application package, including the notice of this hearing, to the landlord as required by the Act, I could not proceed on the tenant’s application in this hearing.

Both parties have a right to a fair hearing and the landlord would not be aware of the hearing or the issues in the tenant’s application without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act and Rules.

I therefore **dismiss** the tenant’s application.

As the evidence showed that the tenant did not receive a formal, written notice to vacate from the landlord on an approved RTB form and due to the tenancy ending when the tenant vacated the rental unit on or about October 24, 2022, the dismissal is **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: December 01, 2022

Residential Tenancy Branch