



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNR MNRT MNDCT LRE OLC FFT**

Introduction

This hearing was convened as a result of the Tenants' application for dispute resolution ("Application") under the *Residential Tenancy Act* ("Act"). The Tenants applied for:

- cancellation of a Ten Day Notice for Unpaid Rent and/or Utilities ("10 Day Notice") pursuant to section 46;
- an order to be paid back by the Landlords for the cost of emergency repairs made by the Tenants pursuant to section 33(5);
- an order for compensation from the Landlord pursuant to section 67;
- an order to suspend or set conditions on the Landlords' right to enter the rental unit pursuant to section 70;
- an order for the Landlords to comply with the Act, *Residential Tenancy Regulations* ("Regulations") and/or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for the Application from the Landlords pursuant to section 72.

The Landlords did not attend this hearing scheduled for 1:30 pm. I left the teleconference hearing connection open for the entire hearing, which ended at 1:41 pm, in order to enable the Landlords to call into this teleconference hearing. The two Tenants ("DR" and "MR") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Dispute Resolution Proceeding ("NDRP") for the Application. I also confirmed from the teleconference system that DR, MR and I were the only ones who had called into this teleconference. I explained the hearing process to the Tenants who did not have

questions when asked. I told the Tenants they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure* (“RoP”).

Preliminary Matter – Non-Service of NDRP on the Landlords by Tenants

At the commencement of the hearing, DR stated the Residential Tenancy Branch (“RTB”) emailed her the NDRP but she did not initially receive it as it went into her junk mailbox. DR stated she did not realize the email was sent to her until much later when she found it in her junk mailbox. DP stated she then called the RTB and was told to advise the arbitrator at the hearing that she had not served the NDRP on the Landlords.

Rule 3.1 of the *Residential Tenancy Branch Rules of Procedure* (“RoP”) states:

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].*

See Rule 10 for documents that must be served with the Notice of Dispute Resolution Proceeding Package for an Expedited Hearing and the timeframe for doing so.

[emphasis in italics added]

The Tenants did not serve the NDRP on each of the Landlords as required by Rule 3.1 of the RoP. As such, I order the Application dismissed with leave to reapply. I make no findings on the merits of the matter. The issuance of this decision does not extend any applicable deadlines under the Act.

Conclusion

The 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: December 4, 2022

Residential Tenancy Branch