



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “*Act*”), for the recovery of their security deposit, for a monetary order compensation pursuant to section 51 of the *Act*, and for the return of their filing fee. The matter was set for a conference call.

Both Tenants and one of the Landlords attended the conference call hearing and were affirmed to be truthful in their testimony. Both parties were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Landlord testified that they had not received the Notice of Dispute Resolution Hearing documents or the Tenants’ documentary evidence. The Landlord testified that the only reason they knew about the hearing today was due to an email they received from the Residential Tenancy Branch, reminding them of today's proceedings.

Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing within three days of the Notice of Dispute Resolution Proceeding Package being made available to the applicant by the Residential Tenancy Branch.

“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].”

Section 3.14 of the Residential Tenancy Branch Rules of Procedure goes on to state the follow regarding evidence:

3.14 Evidence not submitted at the time of Application for Dispute Resolution

“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.”

The Tenants testified that they had not sent the Notice of Dispute Resolution Hearing documents or their documentary evidence to the Landlords.

As the service of the Notice of Dispute Resolution Hearing documents and documentary evidence was not completed, I find that the Landlord’s have not been duly served in accordance with sections 3.1 and 3.14 of the Residential Tenancy Branch rules of procedure. Therefore, as the as the Landlord’s did attend the hearing, I dismiss the Tenants’ application without leave to reapply.

Conclusion

I dismiss the Tenants' application.

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: January 9, 2023

Residential Tenancy Branch