



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC COAST PLACEMENT AND DEVELOPMENT
LTD and [tenant name suppressed to protect privacy]

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 a monetary order for damages or compensation under the *Act*, for the return of the security deposit, and for the recovery of their filing fee for this application. The matter was set for a conference call.

The Tenant attended the hearing and was affirmed to be truthful in their testimony. As the Landlords did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The Tenant testified that the documents were served to the Landlord’s business address by Canada Post Registered mail, sent on May 28, 2022, a Canada post tracking number and one picture of the mailed envelope was provided as evidence of this service. The Tenant testified that the registered mail could not be delivered by Canada Post to the address provided by the Landlord as it was a PO Box. When asked, the Tenant confirmed that this tenancy had ended in 2020 and that they could not say if the Landlord was still in business or if the Landlord was still using the PO Box. The Tenant argued that the Landlord was avoiding service by providing a PO Box for delivery.

The Tenant was asked if they attempted delivery of the Notice of Dispute Resolution Hearing documentation by email, as they had included email addresses for both Landlords listed on their application. The Tenant testified that they had emailed the Landlord, telling them to go pick up the registered mail but that their email to the Landlord was “blocked.”

I have completed a full review of the Tenant's evidence and noted that their evidence shows five different email addresses that were used to communicate with the Landlords during this tenancy. However, none of the email addresses shown in the documentary evidence match the email addresses listed for the Landlords on the Tenant's application. Additionally, I find that there is no evidence before me to show that the Tenant emailed either Landlord regarding the service of the Notice of Dispute Resolution Hearing documentation for these proceedings.

I also noted that there is no evidence or testimony before to show that separate service of the Notice of Dispute Resolution Hearing documentation was attempted to the second Landlord (J.L.) listed on the Tenant's application.

Section 59 of the Act and section 3.1 of the Residential Tenancy Branch Rules of Procedure state 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].”

The Residential Tenancy Branch Rules of Procedure goes on to state that an applicant must be prepared to provide proof of service:

“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.”

Based on the evidence I have before me; I find that the Tenant mailed the Application for Dispute Resolution and Notice of Hearing documents to one of the two Landlords listed on their application for dispute resolution but that the address provided to Canada Post for the delivery of those documents was insufficient to complete delivery.

Additionally, I find that there is no evidence before me to show that the Tenant attempted to serve the Notice of Dispute Resolution Hearing documentation to either of the Landlords by email.

As the service of the Notice of Dispute Resolution Hearing documents cannot be verified, I find that the Landlords have not been duly served in accordance with sections 3.1 of the Residential Tenancy Branch rules of procedure. Therefore, I dismiss the Tenant’s application with leave to reapply.

I must also make note of the Tenant’s conduct during these proceedings, the Tenant remained argumentative with this Arbitrator throughout these proceedings, when information was provided to them regarding the required service of hearing documents. Finally, when this Arbitrator attempted to deliver their final decision, verbally, for this case, the Tenant interrupted by speaking loudly over top of this Arbitrator. This Arbitrator ended these proceedings by repeating their final decision and disconnecting all parties from these proceedings.

Conclusion

I dismiss the Tenant's application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limits under the legislation. I have not made any findings of fact or law with respect to the 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 27, 2023

Residential Tenancy Branch