



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "Act"). The Tenant applied for the return of their security deposit, and to recover their filing fee. The matter was set for a conference call.

The Tenant attended the conference call hearing, as the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

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.

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 Tenant testified that they did not recall if they had served the Landlord the Application for Dispute Resolution and Notice of Hearing documents.

I find that the Landlord had 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.

Conclusion

I dismiss the 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: February 7, 2023

Residential Tenancy Branch