



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASCENT REAL ESTATE MANAGEMENT CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDSD-DR, FFT

Introduction

This hearing was scheduled to convene at 1:30 p.m. on February 7, 2023 by way of conference call concerning an application made by the tenant seeking a monetary order for return of the security deposit or pet damage deposit and to recover the filing fee from the landlord for the cost of the application. The tenant's application was originally made by way of the Direct Request process, which was adjourned to this participatory hearing.

The tenant attended the hearing, however no one for the landlord joined the call. The tenant advised that the tenant has not served the landlord with the Notice of Dispute Resolution Proceeding; English is not the tenant's first language, and the tenant believed the Residential Tenancy Branch would notify the landlord of the hearing.

The Notice of Dispute Resolution Proceeding is dated September 2, 2022 and states:

General Information

The applicant is required to give the Residential Tenancy Branch proof that this notice and copies of all supporting documents were served to the respondent. It is important to have evidence to support your position with regards to the claim(s) listed on this application. For more information see the Residential Tenancy Branch website on submitting evidence at www.gov.bc.ca/landlordtenant/submit. Residential Tenancy Branch Rules of Procedure apply to the dispute resolution proceeding. View the Rules of Procedure at www.gov.bc.ca/landlordtenant/rules. Parties (or agents) must participate in the hearing at the date and time assigned. The hearing will continue even if one participant or a representative does not attend. A final and binding decision will be sent to each party no later than 30

days after the hearing has concluded. In most cases, an applicant can withdraw this dispute any time before the scheduled proceeding by notifying the other party and logging back in to your application at:

<https://tenancydispute.gov.bc.ca/Intake/Login> with your BCeID and selecting the withdraw button. If you withdraw this dispute, you must notify the other party in writing and no proceeding will take place. Your filing fee will not be refunded. You can also withdraw your application by contacting the Residential Tenancy Branch by phone at 1-800-665-8779.

The tenant was also provided with an Interim Decision upon the Direct Request application being reviewed by an Adjudicator. That Decision states:

Notices of Reconvened Hearing are enclosed with this interim decision. The applicant must serve the Notice of Reconvened Hearing, the interim decision, and all other required documents, upon the landlord within three (3) days of receiving this decision in accordance with section 89 of the Act.

Section 89 of the *Residential Tenancy Act* specifies how the documents must be served, as follows:

- 89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:
- (a) by leaving a copy with the person;
 - (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
 - (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
 - (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
 - (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
 - (f) by any other means of service provided for in the regulations.

The tenant suggested that I provide a new hearing date and the tenant will serve the landlord, however there is a deadline, which is 3 days from the date that the tenant receives the Notice of Dispute Resolution Proceeding from the Residential Tenancy Branch. Since the tenant has not done so, I dismiss the application with leave to reapply.

I have made no findings of fact or law with respect to the merits of this matter.

Conclusion

For the reasons set out above, the tenant's application is hereby 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: February 07, 2023

Residential Tenancy Branch