



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNR, MNDCT, RR, OLC, FFT**

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act ("Act") for orders as follows:

- cancellation of the landlords' 10 Day Notice to End Tenancy ("10 Day Notice") pursuant to section 46
- for a monetary order for damage or compensation pursuant to section 67 of the Act
- for an order to reduce rent for repairs, services, or facilities agreed upon but not provided pursuant to section 65 of the Act
- for an order requiring the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62 of the Act
- for reimbursement of the filing fee pursuant to section 72 of the Act

Landlord AM appeared. Tenant JS appeared along with advocate KS. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The parties advised that the tenant vacated the rental unit on January 7, 2023. Therefore, the tenant's application to cancel the 10 Day Notice is dismissed.

Service

The landlord advised that he did not receive the tenant's dispute application package until April 17, 2023. RTB Rules of Procedure Rule 3.1 states in part:

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 advised that the landlord was served with the tenant's dispute package on February 3, 2023. The tenant did not provide proof of service of the dispute resolution package in evidence. RTB Rules of Procedure Rule 3.5 states:

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.

I am not satisfied based on the evidence that the tenant served the landlord with her dispute resolution package until April 17, 2023.

Based on the late provision of evidence by the tenant and the late service upon the landlord, I dismiss the balance of the tenant's claim without leave to reapply on these issues.

Either party may apply for dispute resolution with respect to other claims that may arise in respect of this tenancy.

Conclusion

The tenant's application for dispute resolution is dismissed in its entirety without leave to reapply on the issues raised in 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: April 28, 2023

Residential Tenancy Branch