



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding PROPERTY MANAGEMENT BY JZ PROPERTY
MAINTENANCE and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, FFT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenants applied for:

- a monetary order for compensation for damage or loss under the Act, Residential Tenancy Regulation or tenancy agreement, pursuant to section 67; and
- an authorization to recover the filing fee for this application, under section 72.

Applicant SL and the respondent, represented by DM, attended the hearing. Witness for the respondent CR also attended. SL represented MN. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing all the parties were clearly informed of the Rules of Procedure, including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11, which prohibits the recording of a dispute resolution hearing. All the parties confirmed they understood the Rules of Procedure and section 95(3) of the Act.

The application lists tenants applicants “M-S N-L” and respondents Property Management by JZ Property Maintenance (listed twice), represented by agents DR and CR.

SL affirmed that she and her husband MN were the tenants. The tenancy agreement submitted by the applicants indicates the tenant was MN, SL was an approved occupant and the landlord was Property Management by JZ Property Maintenance.

CR stated that she is the only legal representative of the trust that owned the rental unit and that her husband DR was not responsible for the rental unit. CR’s current address for service is recorded on the cover page of this decision.

SL testified that she registered mailed the notice of hearing and the evidence to the named respondent's address for service in October 2022. SL does not know to whom she addressed the packages.

DM said that he received a package from SL in October 2022 at his address for service, but he did not open it because it was addressed to CR and DR.

DM delivered the package received from Canada Post to CR and DR, received response evidence from them and served it on their behalf to SL and MN.

DM affirmed that the correct legal name of JZ Property Maintenance is JZ Property Maintenance Services Ltd. The current address for service is recorded on the cover page of this decision.

Section 89(1) of the Act states:

- (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.

Residential Tenancy Branch (RTB) Policy Guideline 12 states:

The decision whether to make an order that a document has been sufficiently served in accordance with the Legislation or that a document not served in accordance with the Legislation is sufficiently given or served for the purposes of the Legislation is a decision for the arbitrator to make on the basis of all the evidence before them.

RTB Policy Guideline 43 states:

The Residential Tenancy Act and the Manufactured Home Park Tenancy Act (the Legislation) require a tenancy agreement to include the correct legal names of the

landlord(s) and tenant(s). Other documents, such as condition inspection reports and Notices to End Tenancy, also require correct legal names to be used.

Based on SL's testimony, I find that the applicants did not properly name themselves in the application, as they named themselves "M-S N-L" as a single person, rather than SL and MN.

Based on DM's convincing testimony and SL's vague testimony ("SL does not know whom she addressed the packages to"), I find that SL mailed the notices of hearing to the named respondent's address for service, but addressed the packages to CR and DR.

The applicants must serve the notice of hearing to the named respondent. As the applicants did not address the notice of hearing to the named respondents, I find the applicants did not serve the notice of hearing in accordance with section 89(1) of the Act.

Rule of Procedure 3.1 states:

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].

(emphasis added)

As the applicants did not serve the notice of hearing in accordance with section 89(1) of the Act and considering that I will not make any findings about the merits of this claim, I dismiss the application with leave to reapply. Leave to reapply is not an extension of the timeline to apply.

Both parties asked me questions about how to name the parties and the possibility of submitting counterclaims. I advised the parties to carefully read the residential tenancy legislation of British Columbia and to seek legal advice.

Conclusion

I dismiss the application with leave to reapply.

The applicants must bear the cost of the filing fee, as they were not successful.

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: May 19, 2023

Residential Tenancy Branch