



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "Act"), made on August 22, 2022. The Landlord applied for a monetary order for unpaid rent and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord attended the conference call hearing and was affirmed to be truthful in their testimony. As the Tenants 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 Landlord testified that the Application for Dispute Resolution and Notice of Hearing documents were served on the Tenants by Canada Post Registered mail. The Landlord was unable to testify as to the date the Canada Post Registered mail was sent to the Tenants and did not submit a copy of the Canada Post Registered mail tracking number into documentary evidence.

I find that there is insufficient evidence before me to prove that the Tenants had been served the Application for Dispute Resolution and Notice of Hearing document by Canada Post Registered mail.

I find that the Tenants have not been duly served in accordance with section 3.1 of the Residential Tenancy Branch rules of procedure. Therefore, I dismiss the Landlord’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: May 15, 2023

Residential Tenancy Branch