



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## DECISION

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

### Introduction

This hearing dealt with two applications filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 46 and 55;
  - A monetary order for damages or compensation pursuant section 67;
  - An order for a reduction of rent for repairs, services or facilities agreed upon but not provided pursuant to sections 27 and 65;
  - An order for repairs to be made to the unit, site or property pursuant to section 32.
- 
- An order to cancel a 10 Day Notice to End Tenancy for Unpaid Rent/Utilities pursuant to sections 46 and 55;
  - An order for a reduction of rent for repairs, services or facilities agreed upon but not provided pursuant to sections 27 and 65;
  - An order for repairs to be made to the unit, site or property pursuant to section 32; and
  - An order for the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62.

### Preliminary Issue

The landlord did not attend this half hour hearing scheduled for 9:30 a.m., although the teleconference connection was left open throughout. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant attended the hearing and stated he served the landlord with copies of his Notices of Dispute Resolution Proceedings via registered mail however he does not

recall when it was and could not provide the tracking number for the mailing. The tenant testified that he is confused by the dispute resolution process and that the process has been draining and taxing on his mind.

When I asked the tenant how and when he served the landlord with the video evidence uploaded to the Residential Tenancy Branch website, the tenant responded by saying it was “sent in by the application”. When I asked the tenant to explain what that meant, the tenant indicated it was sent to the landlord to his cell phone, date unknown, however the tenant found out the landlord does not have a cell phone.

The tenant also testified that the person he named as landlord in this proceeding is the person he thought was his landlord, however there is another person who owns the property he rented, “JB”. The tenant corresponded with “JB” by email and the same person issued the notice to end tenancy for unpaid rent. Despite this, the tenant did not name “JB” as a landlord in this proceeding.

The tenant testified that he vacated the rental unit on April 15, 2023.

### Analysis

Section 89 of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution:

*89(1) An application for dispute resolution,...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 Residential Tenancy Branch Rules of Procedure 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].

### **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.

The Residential Tenancy Branch Policy Guideline PG-12 provides guidance regarding service of document provisions in the *Act*. (Excerpt reprinted below)

#### **PROOF OF SERVICE**

Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package. Proof of service of other documents may be submitted in support of claims for dispute resolution in accordance with the Rules of Procedure.

...

Proof of service by Registered Mail should include the original Canada Post Registered Mail receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report. Failure to prove service may result in the matter being dismissed, with or without leave to reapply. Adjournments to prove service are given only in unusual circumstances.

The principles of natural justice and procedural fairness require that the landlord has been put on sufficient notice of the claim against him and that he has had adequate time and opportunity to respond to the application. Based on the tenant's lack of evidence regarding service, I am not satisfied that the person named as the landlord was properly served with the documents within 3 days, as set out in Rule 3.1 of the Residential Tenancy Branch Rules of Procedure. As such, I dismiss the tenant's application with leave to reapply.

As the tenant has vacated the rental unit, the applications seeking to cancel the landlord's notice to end tenancy are dismissed without leave to reapply.

### Conclusion

The applications seeking to cancel the landlord's notice to end tenancy are dismissed without leave to reapply.

The remaining issues identified in the tenant's applications are dismissed with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*.

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 04, 2023

---

Residential Tenancy Branch