



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **RR, RP, FFT**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (Act) for:

1. An Order to reduce rent for repairs, services or facilities agreed upon but not provided under Section 65 of the Act;
2. An Order for repairs to the unit, the Landlord has been contacted in writing to make repairs, but they have not been completed under Section 32 of the Act; and,
3. Recovery of the application filing fee under Section 72 of the Act.

The hearing was conducted via teleconference. The Tenant attended the hearing at the appointed date and time and provided affirmed testimony. The Landlord did not attend the hearing. 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 was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Tenant that Rule 6.11 of the Residential Tenancy Branch (RTB) Rules of Procedure prohibits the recording of dispute resolution hearings. The Tenant testified that she was not recording this dispute resolution hearing.

The RTB issued the Notice of Dispute Resolution Proceeding package to the Tenant for this hearing on February 28, 2023 (NoDRP package). The Tenant testified that she

served the NoDRP package by Canada Post registered mail. The Tenant did not provide the Canada Post registered mail receipt or tracking number as proof of service.

Pursuant to Section 89 of the Act, 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.

As the Tenant did not provide proof of service of the NoDRP package, principles of natural justice were breached. Principles of natural justice (also called procedural fairness) are, in essence, procedural rights that ensure parties know the case against them, parties are given an opportunity to reply to the case against them and to have their case heard by an impartial decision-maker: *AZ Plumbing and Gas Inc.*, BC EST # D014/14 at para. 27. Procedural fairness requirements in administrative law are functional, and not technical, in nature. They are also not concerned with the merits or outcome of the decision. The question is whether, in the circumstances of a given case, the party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it: *Petro-Canada v. British Columbia (Workers' Compensation Board)*, 2009 BCCA 396 at para. 65. I find that service was not effected and it would be administratively unfair to proceed on the Tenant's application against the Landlord. I dismiss all the Tenant's claims with leave to re-apply.

For the benefit of the Tenant, she may wish to discuss with an Information Officer at the RTB the options available to her to re-apply for this matter. An Information Officer can be reached at:

5021 Kingsway

Burnaby, BC

Phone: 604-660-1020 (Lower Mainland)

250-387-1602 (Victoria)

1-800-665-8779

Website: www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies

As the Tenant was not successful in her claim, I do not grant her recovery of the application filing fee.

Conclusion

The Tenant's application is dismissed with leave to re-apply for improper service.

The Tenant's claim for recovery of the application filing fee is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: June 13, 2023

Residential Tenancy Branch