



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNL, MNSD, FF, O

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking more time than prescribed to dispute a notice to end the tenancy, for an order cancelling a notice to end the tenancy for landlord's use of property, for a monetary order for return of all or part of the pet damage deposit or security deposit, and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, however the line remained open while the phone system was monitored for 10 minutes prior to hearing any submissions of the tenant, and no one for the landlord joined the call. The tenant testified that the landlord was served with notice of this hearing by registered mail on July 6, 2017 and orally provided a tracking number.

The tenant has not provided any evidentiary material, and submitted that the landlord has not served the tenant with an Application for Dispute Resolution seeking an Order of Possession. However, the Rules of Procedure require:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, at the same time as the application is submitted to the Residential Tenancy Branch directly or through a Service BC office, the applicant must submit:

- ☐ a detailed calculation of any monetary claim being made;
- ☐ a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- ☐ copies of all other documentary and digital evidence to be relied on at the hearing.

When submitting applications online, the applicant must submit the required documents to the Residential Tenancy Branch directly or through a Service BC office within three business days of submitting the online Application for Dispute Resolution.

Analysis

The *Residential Tenancy Act* specifies that a notice to end a tenancy given by a landlord must be in the approved form. The *Act* also states that where a tenant's application to cancel a notice to end the tenancy given by the landlord is dismissed, the Arbitrator must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. Without a copy, and in the absence of any input or evidence from the landlord, I cannot be satisfied that any notice given by the landlord was in the approved form.

The landlord has not served the tenant with an Application for Dispute Resolution, and I find it just in the circumstances to dismiss the tenant's application with leave to reapply, and I make no findings of fact or law with respect to the merits of this application.

Conclusion

For the reasons set out above, I hereby dismiss the tenant's application with leave to reapply.

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: September 12, 2017

Residential Tenancy Branch