



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL OPUM-DR**

Introduction

On October 11, 2019, an Adjudicator appointed pursuant to the *Residential Tenancy Act* (the *Act*) adjourned the landlord's application for dispute resolution for the following items to a participatory hearing. She did so on the basis of an *ex parte* hearing using the Residential Tenancy Branch's direct request process. The adjudicator adjourned the direct request for the following reasons:

I have reviewed all documentary evidence and I find that the tenancy agreement submitted by the landlords does not indicate the amount of the monthly rent payable.

I also find that the landlord's name on the tenancy agreement does not match either of the landlords' names on the Application for Dispute Resolution. There is also no evidence or documentation showing that the applicants are the owners of the rental property or are otherwise entitled to any orders that may result from this application.

I have been delegated authority under the *Act* to consider the landlord's application for:

- Authorization to recover the filing fees from the tenant pursuant to section 72; and
- An order of possession and a monetary order for unpaid rent, by direct request pursuant to sections 46 and 55.

The tenant did not attend the hearing although I left the teleconference hearing connection open until 1:40 p.m. in order for the tenant to call into this hearing set for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the

teleconference system that the tenant and I were the only ones who had called into this teleconference.

The landlord attended the hearing and was represented by AR ("landlord"). The landlord testified she sent the tenant the Notice of Dispute Resolution Proceedings package by registered mail to the tenant's last known residence on October 16, 2019. The tracking number for the mailing is recorded on the cover page of this decision. The landlord testified that the tenant moved out of the subject rental unit sometime after being served with the 10 Day Notice to End Tenancy for Unpaid rent, however the landlord was unable to provide an exact date. They confirm that the tenant was no longer living in the rental unit on October 28, 2019, the day they hired cleaners to clean the tenant's abandoned rental unit. The landlord testified that she was not provided with a forwarding address by the tenant when he moved out. The landlord testified that the tenant has abandoned the rental unit and she is now seeking compensation for cleaning and storing the tenant's possessions.

Analysis

The landlord testified the tenant moved out of the rental unit. The tenant's possessions have been removed and the unit has been cleaned for re-rental. As such, an Order of Possession is no longer required. Pursuant to section 62(4), I dismiss this part of the landlord's application as it does not disclose a dispute that may be determined under Part 5 of the *Act*.

Rule 3.1 of the Residential Tenancy Branch Rules of Procedure state:

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].

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure state:

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.

As the landlord has testified she served the tenant with the Notice of Dispute Resolution Proceeding Package by registered mail to the former address of the tenant, knowing he has abandoned the rental unit, I am not satisfied the tenant was served in accordance with Rules 3.1 and 3.5. Accordingly, I dismiss the landlord's application for a monetary order for compensation for unpaid rent and utilities under section 67 with leave to reapply.

Conclusion

I dismiss the landlord's application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*, including the deadlines for applying for dispute resolution or for returning security deposits at the end of a tenancy.

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: November 08, 2019

Residential Tenancy Branch