



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wachiay Friendship Centre Kishi
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction, Preliminary and Procedural Matters-

This expedited hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (Act) made on April 19, 2021, for:

- an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act [landlord's notice for cause]; and
- to recover the cost of the filing fee.

The landlord's agents (agents) and the tenant attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The parties were instructed they were not allowed to record the hearing and they affirmed they were not recording the hearing.

When attempting to confirm that the landlord properly served the tenant with their application, agent RK said they handed their application to the tenant the day before the hearing. RK said that the tenant had been in custody since March 2021 and they had not been in communication with him until the day before the hearing.

The hearing proceeded on the issue of jurisdiction, which appeared to be an issue raised in the landlord's documentary evidence.

The hearing on the merits of the landlord's application began; however, during the course of the hearing, it became clear that the tenant was unprepared to provide a full response to the landlord's application. Further, it was unclear if the landlord handed the

tenant their full dispute package, which included their evidence, as the tenant did not seem to be aware of the evidence.

Residential Tenancy Branch Rules of Procedure (Rules) 10.3 states the following for expedited hearings:

The applicant must, within one day 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:

- *the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;*
- *the Respondent Instructions for Dispute Resolution;*
- *an Order of the director respecting service;*
- *the Expedited Dispute Resolution Process Fact Sheet (RTB-114E) provided by the Residential Tenancy Branch; and*
- *evidence submitted to the Residential Tenancy Branch online or in person, or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 10.2 [Applicant's Evidence Relating to an Expedited Hearing].*

In this case, the Notice of Hearing and application for dispute resolution package was provided to the landlord on April 27, 2021, and they were required to serve these documents to the tenant by April 28, 2021. Instead, they delivered the documents to the tenant on May 20, 2021.

Further, the landlord's agent was unclear on which documents, including their evidence, were served to the tenant.

I find the landlord submitted insufficient evidence that their application package was served to the tenant according to the requirements of Rule 10.3 and within one day of receiving the application package.

I therefore dismiss the landlord's application, **with leave to reapply**, due to service issues as described above. For this reason, I am unable to consider the merits of the landlord's application.

Leave to reapply does not extend any applicable time limitation deadlines.

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 21, 2021

Residential Tenancy Branch