



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, CNC-MT**

Introduction

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

1. Cancellation of the Landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to Sections 47 and 62 of the Act;
2. More time to dispute the notice pursuant to Section 66 of the Act; and,
3. Recovery of the application filing fee pursuant to 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 (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Tenant testified that he was not recording this dispute resolution hearing.

The Landlord served the Tenant with the One Month Notice via registered mail. The Tenant's dispute resolution application stated it was received on January 30, 2022. The Landlord was not at the hearing to provide proof of service; however, the Tenant's Notice of Dispute Resolution Proceeding reports receipt of the One Month Notice on

January 30, 2022. I find the Tenant was served with the One Month Notice on January 30, 2022 pursuant to Section 88(c) of the Act.

The Tenant confirmed that he applied for dispute resolution for the One Month Notice on February 8, 2022. The RTB emailed the Notice of Dispute Resolution Proceeding package for this hearing on February 15, 2022 (the “NoDRP package”). The Tenant did not serve the NoDRP package on the Landlord. The Tenant stated he is a single father with four children, and he thought the RTB notified the other party. 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 (e.g.: by email).

As the Tenant did not serve the Landlord at all with 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 of the Tenant's claims with leave to re-apply. I make no findings on the merits of the matter.

For the benefit of the Tenant, he may wish to discuss with an Information Officer at the RTB the options available to him to properly serve legal documents for this matter. An Information Officer can be reached at:

5021 Kingsway

Burnaby, BC

Phone: 250-387-1602 / 1-800-665-8779

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

Conclusion

The Tenant's dispute resolution application is dismissed with leave to re-apply. This dismissal does not extend any time limitation that may apply under 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 Act.

Dated: May 17, 2022

Residential Tenancy Branch