



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, OLC, RP, RR, FFT

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order of \$2,000.00 for damage or compensation under the Act; for an Order for the Landlord to Comply with the Act or tenancy agreement; for an Order for repairs to the unit or property, having contacted the landlord in writing to make repairs, but they have not been completed; for an Order to reduce the rent for repairs, services or facilities agreed upon, but not provided; and to recover the \$100.00 cost of their filing fee.

The Tenant, A.D., his wife, T.N., and a former owner/Landlord of the property, T.S. ("Former Landlord"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. During the hearing the Tenant and the Former Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the current owner of the residential property did not attend the hearing and the Former Landlord has questionable status to present evidence, I considered service of the Notice of Dispute Resolution Hearing and the Tenant's evidence on the Landlord. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The Tenant testified that he served these documents to the person who was his landlord in person "...a couple of months ago." The Tenant said that the presence of the Former Landlord in the hearing was proof of service, because he said this is who he served. However, the person who attended the hearing and identified himself as the Tenant's Former Landlord and the former owner of the residential property had a different name than the respondent identified by the Tenant in his Application.

The Tenant said he seeks remedies for the lack of heat and noise issues he and his

wife have experienced in the rental unit. However, the Former Landlord's testimony was that he sold the residential property as of April 20, 2022, and the only information he had about the new owner was that it was a numbered company, the name of which he provided to the Tenant in the hearing. I find that the Former Landlord cannot offer remedies to ongoing breaches of quiet enjoyment, nor reinstating service or facilities; therefore, I find that the Former Landlord is not an appropriate Party to name in this matter. I find that the Former Landlord does not have standing for the remedies sought by the Tenant.

The Parties could not clarify who the Party is that was named as respondent by the Tenant in his Application. There is no indication that the named respondent is or was a Landlord of the residential property; although, the Tenant said that this was the name he was given by a person who collected rent. He suggested that the Former Landlord who attended the hearing may have said he was this person, but the Former Landlord denied that assertion. The Tenant did not submit any documentary evidence, such as a tenancy agreement for my consideration.

The Tenant said that he has paid rent to someone representing the new owner and that the receipt he received for his rent identified the recipient as ["G. Properties"]; however, neither Party had any additional information about the new owner or this apparent agent of the new landlord.

Based on the evidence before me in the hearing, and on a balance of probabilities, I find that the Tenant has not provided sufficient evidence to establish that he served his former landlord, nor his new landlord with the Notice of Hearing documents. As such, I dismiss this Application wholly with leave to reapply, as it appears that neither the former nor the current landlord is being transparent about their respective identity, or their address for service, which is required pursuant to section 13 (2) (e) of the Act.

I encourage the Tenant to research the new Landlord more thoroughly before re-starting any dispute resolution proceedings, and to contact the RTB about the possibility of an order of substituted service, if the Tenant is unsuccessful in identifying more than the new owner's property managers.

In an effort to assist the Tenant in understanding the applicable Rules in this matter, I reproduce relevant Rules for your consideration. The requirements within these Rules are consistent with the principles of natural justice and administrative fairness, with which administrative hearings, such as this, must be conducted.

3.1 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].

[underlining emphasis added]

There may be some evidence on which the applicant wants to rely that is not available at the time the applicant applies to the RTB for dispute resolution. The applicant may submit this evidence to the RTB and serve it on the respondent(s), as soon as possible, but not more than 14 days before the hearing, as provided under Rule 3.14.

3.14 Evidence not submitted at the time of Application for Dispute Resolution

Except for evidence related to an expedited hearing (see Rule 10), documentary and digital evidence that is intended to be relied on at the hearing must be received by the respondent and the Residential Tenancy Branch directly or through a Service BC Office not less than 14 days before the hearing. In the event that a piece of evidence is not available when the applicant submits and serves their evidence, the arbitrator will apply Rule 3.17.

[underlining emphasis added]

As such, an applicant must be well prepared to serve the other party as soon as the applicant applies for dispute resolution.

If you need any of this explained further, please don't hesitate to call the RTB office and

speak with an information officer for clarification of any residential tenancy matter.

In light of the above, I 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: June 06, 2022

Residential Tenancy Branch