



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDCL FFL**

Introduction

This hearing was convened by way of conference call in response to the Landlords' application for dispute resolution ("Application") under the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for monetary loss or other money owed by the Tenant to the Landlords pursuant to section 67(1); and
- authorization to recover the filing fee of the Application from the Tenant pursuant to section 72.

The Tenant did not attend this hearing. I left the teleconference hearing connection open until 1:50 pm in order to enable the Tenant to call into this teleconference hearing scheduled for 1:30 pm. One of the two Landlords ("MP") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Dispute Resolution Proceeding ("NDRP"). I also confirmed from the teleconference system that MP and I were the only ones who had called into this teleconference.

Preliminary Matter – Non-Service of Notice of Dispute Resolution Proceeding on Tenant

MP stated she served the NDRP and the Landlord's evidence on the Tenant's boyfriend in-person on April 8, 2022. Rule 3.1 of the RoP states:

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*].

See Rule 10 for documents that must be served with the Notice of Dispute Resolution Proceeding Package for an Expedited Hearing and the timeframe for doing so.

The NDRP is a special document in which the Landlords are making a monetary claims against the Tenant. As such, the NDRP must be served in accordance with the provisions of section 89(1) of the Act that states:

- 89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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.

Section 89(1) did not permit the Landlords to serve the NDRP by leaving a copy at the person's residence with an adult who apparently resides with the person. As such, the Landlord did not serve the NDRP on the Tenant using a method set out in section 89(1). Based on the foregoing, I dismiss the Application with leave to reapply. The Landlords have the option of making a new application for dispute resolution to make their claims.

Conclusion

The Application is dismissed 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: December 1, 2022

Residential Tenancy Branch