



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing dealt with the adjourned Direct Request Application by the Landlords filed under the Residential Tenancy Act (the “Act”), for an order of possession to enforce a 10-Day Notice for Unpaid Rent (the Notice) issued on August 4, 2022, a monetary order for unpaid rent, and to recover the filing fee paid for this application. The matter was set for a conference call.

An agent for the Landlords (the “Landlord”) attended the hearing and was affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documents was considered.

Section 59 of the Act and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing within three days of the Notice of Dispute Resolution Proceeding Package being made available to the applicant by the Residential Tenancy Branch.

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].”

The Landlord testified that they personally served the Notice of Hearing documents to the Tenant on October 6, 2022. When asked the Landlord testified that they had filled out a proof of service document but that they had failed to submit it into documentary evidence for these proceedings.

Section 3.5 Residential Tenancy Branch Rules of Procedure provides further guidance, stating the following:

3.5 Proof of service required at the dispute resolution hearing

“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.”

I have reviewed all of the Landlord’s evidence submitted to support their claim, and I find that there is no evidence before me to show that the Notice of Hearing documents, for these proceedings, had been served to the Tenant.

Due to the lack of evidence to substantiate the service of these documents, I must find that the Tenant has not been duly served the notification of the hearing documents as required, pursuant to section 59 of the *Act*.

Therefore, I dismiss the Landlords’ application with leave to reapply. This decision does not extend any legislated timelines pursuant to the *Act*.

Conclusion

I dismiss the Application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limits under the legislation. I have not made any findings of fact or law with respect to the Application.

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: February 6, 2023

Residential Tenancy Branch