



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding 1296559 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "Act"), made on July 16, 2022. The Landlord applied for a monetary order for unpaid rent, permission to retain the security deposit, and to recover the filing fee paid for the application. The matter was set for a conference call.

Two Landlords attended the hearing and were each affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documents was considered. Section 59 of the *Act* and section 3.1 of the Residential Tenancy Branch Rules of Procedure state 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 Landlords testified that the Application for Dispute Resolution, and the Notice of Hearing document had not been served to the Tenants as they did not have a forwarding address for either of them. As these documents have not been served, I find that the Tenants have not been duly served the notification of this hearing as required, pursuant to section 59 of the *Act*.

Consequently, I dismiss the Landlords’ application for a monetary order for unpaid rent with leave to reapply. I dismiss the Landlord’s application to recover the filing fee paid for this application without leave to reapply.

This decision does not extend any legislated timelines pursuant to the *Act*.

Conclusion

I dismiss the Landlords’ application monetary order for unpaid rent and a monetary order for monetary loss or other money owed with leave to reapply.

I dismiss the Landlords’ application to recover the filing fee paid for this application without 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: April 12, 2023

Residential Tenancy Branch