



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes 1st application: CNC, MNDCT, RR, RP, OLC, FFT
2nd application: CNC, MNRT, MNDCT, RR, RP, PSF, LRE,
LAT, OLC

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on April 4, 2023. The Tenants applied for multiple remedies, under two different applications, pursuant to the *Residential Tenancy Act* (the "Act").

Both parties attended the hearing and provided affirmed testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

At the outset of the hearing, service of documents was discussed, in detail. The Tenants filed two applications, and were provided with two Notice of Dispute Resolution Proceeding document packages by the RTB, which they were required to serve the Landlord, as per Rule 3.1:

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 or

within a different period specified by the director, serve each respondent with copies 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) any fact sheets 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].*

Further, I note the following Rule:

2.5 Documents that must be submitted with an Application for Dispute Resolution

To the extent possible, the applicant must submit the following documents at the same time as the application is submitted:

- a detailed calculation of any monetary claim being made;*
- a copy of the Notice to End Tenancy, when the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and*
- copies of all other documentary and digital evidence to be relied on in the proceeding, subject to Rule 3.17 [Consideration of new and relevant evidence].*

When submitting applications using the Online Application for Dispute Resolution, the applicant must upload the required documents with the application or submit them to the Residential Tenancy Branch directly or through a Service BC Office within three days of submitting the Online Application for Dispute Resolution.

I note the Tenants failed to provide a copy of the 1 Month Notice to End Tenancy for Cause (the 1-Month Notice), and instead the Tenants uploaded a rude and profane picture under the 1 Month Notice heading in the dispute access web portal. In any event, the Tenants failed to provide a copy of the 1 Month Notice, as required by Rule 2.5, and instead appear to have made a joke out of their obligations under the Rules of Procedure. I turn to the following part of the Act:

Director's authority respecting dispute resolution proceedings

62 (4) *The director may dismiss all or part of an application for dispute resolution if*

(a) there are no reasonable grounds for the application or part,

(b) the application or part does not disclose a dispute that may be determined under this Part, or

(c) the application or part is frivolous or an abuse of the dispute resolution process.

I find the Tenants inappropriate and rude documents uploaded in the place of the 1 Month Notice is an abuse of the dispute resolution process. The Tenants filed an application to cancel a 1 Month Notice, but rather than provide a copy of that Notice, they opted to make a joke. I hereby dismiss both of the Tenants' applications, in full, without leave, pursuant to section 62(4)(c) of the Act.

Further, I note the Tenants provided a scattered and unclear explanation as to what was served and when, in terms of their Notice of Dispute Resolution Proceedings and evidence. They initially stated it was served by registered mail, but could not provide a copy of any proof of mailing, then they said they served it in person. The Landlord stated that they never received anything from the Tenant. Without further proof of service, I find there is insufficient evidence the Tenants served any of the required documents or their evidence, and the Tenant's applications are also being dismissed on this basis.

I note the RTB provided the hearing details to the Landlord over the phone as a courtesy and the Landlord provided a copy of the 1 Month Notice prior to the hearing. This will be addressed further below.

The Landlord testified that the Tenants continue to occupy the rental unit and continue to be in breach of the tenancy agreement, for keeping a dog on the property.

Section 55 of the Act applies and states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if**

(a) **the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and**

(b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[My emphasis added]

Under section 55 of the *Act*, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52, I must grant the Landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find that the Notice issued by the Landlord in November 2022 meets the requirements for form and content and the Landlord is entitled to an order of possession, effective 2 days after service on the Tenants.

Conclusion

The Tenant's application has been dismissed in full, without leave to reapply.

The Landlord is granted an order of possession effective **two days after service** on the Tenants. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 5, 2023

Residential Tenancy Branch