



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, MNDC, MNSD, FF

Introduction

This matter dealt with an application by the Tenant to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a Monetary Order for the return of the security deposit, compensation for loss or damage under the Act or tenancy agreement and to recover the filing fee for this proceeding.

The Landlord said he was not served with the Tenant's Application and Notice of Hearing package and he only knew about the Hearing because he had contacted the Residential Tenancy Branch and was told about the hearing. The Landlord requested the Tenant's Application be dismissed as he was not served the Tenant's Application and Hearing package as required under the Act.

The Tenant said she tried to serve the Landlord in person, but was unsuccessful. She said she did not serve the Application and the Hearing package to the Landlord in one of the other methods that the Act provides and as a result she did not serve the Landlord the Application or the Hearing Package.

Analysis

Section 59(3) states that a person who makes an application for dispute resolution **must** give a copy of the application to the other party **within 3 days** of making it, or within a different period specified by the director.

Section 88 states all documents, other than those referred to in section 89(special rules for certain documents), that are required or permitted under the Act to be given to or served on a person **must be** given or served in one of the following ways. The section then lists the ways to serve documents, in person, by registered mail, by fax, by posting it in a conspicuous place or by order of the director or the regulations.

The Tenant did not serve her Application and Hearing package on the Landlord and she did not have an Order from the director for a different time period. As a result, the Landlord was unaware of the Application's content so he was unable to prepare a defence. For this reason, I find that the Tenant's Application is dismissed with leave to reapply.



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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*.