



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LOMBARDY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC O FF

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Landlord on September 24, 2015 seeking to obtain an Order of Possession for cause, for other reasons, and to recover the cost of the filing fee from the Tenant.

The hearing was conducted via teleconference and was attended by the Landlord (Manager), the Tenant, and the Tenant's two witnesses. I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The owner signed into the proceeding fifteen minutes into the proceeding, just as I was dismissing the application. I explained to him briefly what had transpired and continued with the proceeding.

Issue(s) to be Decided

Should this application be dismissed with or without leave to reapply?

Background and Evidence

At the outset of this proceeding the Tenant testified that she received a registered mail package from the Landlord that included the Landlord's evidence and a letter which was the Notice of a Dispute Resolution Hearing document. She argued that she was not served a copy of the Landlord's application for Dispute Resolution and therefore could not properly defend herself as she had no idea what the Landlord was seeking.

The Landlord testified that she did not have a copy of the Application for Dispute Resolution in her package either. She said she could not recall if she ever received a copy of it or that she printed off a copy that was sent to her from the Residential Tenancy

Branch (RTB) by email. Therefore, without seeing a copy of the application she could not confirm that a copy had been served to the Tenant.

Analysis

Section 52(3) of the *Act* stipulates 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 the application, or within a different period specified by the director.

In this case I accept that the Tenant was not served with a copy of the Landlord's Application for Disputes Resolution as required by section 52(3) of the *Act*. I further accept the Tenant's submission that she could not properly prepare her defense without knowing the details of the Landlord's dispute. Accordingly, I dismiss the Landlord's application, with leave to reapply.

Conclusion

The Landlord was not able to prove service of their Application upon the Tenant and their application was dismissed, with leave to reapply.

No findings of fact or law were made in relation to the 1 Month Notice to End Tenancy issued July 31, 2015. Therefore, that Notice remains in full force and effect until such time as it is cancelled or set aside in accordance with the *Act*. .

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: November 25, 2015

Residential Tenancy Branch

