



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the *Act*") for more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 66; cancellation of the landlord's 1 Month Notice to End Tenancy pursuant to section 47; and a monetary order for compensation for loss under the *Act* pursuant to section 67.

The landlord did not attend this hearing. The tenant/applicant ("the tenant") and her sister/advocate attended the hearing and were given an opportunity to present sworn testimony and make submissions.

The tenant was uncertain with respect to many of the details of this matter, including the date of service of any documents for this hearing to the landlord. The tenant testified that, while she had not submitted any Canada Post receipts as evidence, she believed that she had receipts somewhere. The tenant was given an opportunity to find and produce the details of service but she was unable to do so. The tenant made a recent amendment to her application and her advocate testified that the landlord had been served with these materials. Again, there was no documentary evidence that could assist the tenant in her recall with respect to the details of the service of the documents to notify the landlord of this application and hearing.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process. Service of documents is restricted by timelines and methods of service to underscore its importance. Beyond proper service, it is also essential that a party be able to prove that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent (in this case the landlord)

does not appear at a Dispute Resolution hearing, the applicant must be prepared to prove service under oath. The tenant testified that she served the Application for Dispute Resolution package to the landlord by registered mail. However she was unable to identify the details that she is required to provide including the date and time of service, and any other details to assist in the arbitrator in determining whether the hearing documents had been sufficiently served.

Prior to considering the details of the applicant's claim (the substance of the application and the jurisdiction of the Residential Tenancy Branch), the arbitrator must be satisfied that the tenant/applicant sufficiently served the other party, allowing that party an opportunity to know the case against them and attend the dispute resolution hearing.

Given the lack of detail in providing evidence with respect to service, I find that the tenant was unable to prove that the landlord was served with the dispute resolution documents and was therefore aware of this dispute resolution hearing.

Conclusion

I dismiss the tenant's application 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*.

Dated: February 04, 2016

Residential Tenancy Branch

