



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) issued on January 2, 2017 and to reduce rent for repairs.

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing was sent by registered mail on January 19, 2016, a Canada post tracking number was provided as evidence of service. The Canada post tracking indicates the document has not been picked up at the time of the hearing.

In normal circumstance the deemed service provision under the Act, would apply even when the documents have been neglected or refused to pick up by the recipient. However, in this case, I find the deemed service provision in the Act do not apply since this was the tenant’s application for dispute resolution and they were required to serve these documents no later than January 13, 2017. I find the tenants did comply with the service provision, as they were not sent until January 19, 2017.

Although I heard testimony from the tenant, I find it would be prejudicial to the landlord to consider any evidence, as they were not served in accordance in the Act. Therefore, I decline to consider any evidence that was provided at the hearing. The tenants’ application is dismissed with leave to reapply.

Conclusion

The landlord was not served with the Application and Notice of Hearing by January 13, 2017 as required. The documents were sent by register mail on January 19, 2017, they have not been received by the landlord. The tenants' 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*.

Dated: February 02, 2017

Residential Tenancy Branch