



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, AS

Introduction

This matter dealt with an application by the Tenant to cancel a 2 Month Notice to End Tenancy for the Landlord's Use of the Property and to assign or sublet the rental unit as the Landlord is withholding permission unreasonably.

The Tenant said she filed the application on April 25, 2017 but she did not serve the Landlord with the Application and Notice of Hearing (the "hearing package") because she thought the Residential Tenancy Branch would serve the Landlord. The Tenant said she did not read the instructions that came with her Notice of Hearing package. Consequently the Landlord did not appear at the hearing because he was not served the Hearing package and therefore did not know the hearing was taking place.

Based on the evidence of the Tenant, I find that the Landlord was not served with the Tenant's hearing package as required by s. 89 of the Act. Service of the Hearing package is to be within 3 days of filing an application. In this situation the Tenant did not serve the Landlord the hearing package at all. Consequently, I dismiss the Tenant's application due to lack service of the Application and Notice of Hearing (the "Hearing package") as required by the Act.

Conclusion

The Tenant's 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: June 5, 2017

Residential Tenancy Branch