



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding R&D HOMES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes AS, MNDCT, OLC, LRE

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant said that they were expecting a witness to call into this hearing. No witness called into this hearing.

The tenant testified that the tenant tried to hand a copy of the tenant's dispute resolution hearing package to a representative of the landlord shortly after completing his application and receiving the notice of hearing from the Residential Tenancy Branch on January 8, 2018. The tenant said that he handed the dispute resolution hearing package, including notification of this hearing to a male staff member working for the landlord on January 25, 2018. The tenant did not know the staff member's name.

The Residential Tenancy Branch's Rule of Procedure 3.1 states that the hearing package including notices of dispute resolution hearings are to be served to the Respondent within three days of being received by the Applicant for dispute resolution. This information is clearly identified on the hearing package given to Applicants. While there is some flexibility regarding the service of these documents, in this case, the tenant said he was unable to serve anyone from the landlord's establishment for 17 days, which was only 8 days before this hearing.

Under these circumstances and as the tenant produced no witness attesting to the hand delivery of the tenant's hearing package to an unnamed representative of the landlord, I find that the tenant has not demonstrated to the extent required that the landlord has been properly served with the tenant's dispute resolution hearing package in accordance with section 89(1) of the *Act*. The tenant's application is dismissed with leave to reapply.

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 01, 2018

Residential Tenancy Branch