



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46 of the *Act*.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:46 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

Preliminary Issue – Service of Notice of Dispute Resolution Proceeding Documents

As only the tenant attended the hearing, I asked the tenant to confirm that he had served the landlord named on this application with the Notice of Dispute Resolution Proceeding (Notice) for this hearing. The tenant testified that he had served the Notice by Canada Post registered mail. I asked the tenant to provide the Canada Post registered mail receipt tracking number as proof of service. The tenant stated that he could not find the registered mail receipt with the tracking number.

I explained to the tenant that his application would be dismissed with leave to reapply as proof of service of the Notice could not be provided.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedures sets out the requirement of an applicant to demonstrate proof of service:

3.5 Proof of service required at the dispute resolution hearing:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

Pursuant to Rule 3.5 noted above, I do not find that the Notice of this hearing was served by the tenant to the landlord as required by the *Act* and the Rules of Procedure, as the tenant was unable to provide proof of service.

The tenant's application is dismissed in its entirety, with leave to reapply. I make no findings on the merits of the matter. The issuance of this decision with leave to reapply does not extend any applicable time limits under the *Act*.

Issue(s) to be Decided

Should the landlord's 10 Day Notice to End Tenancy be cancelled?

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under 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 *Residential Tenancy Act*.

Dated: July 06, 2018

Residential Tenancy Branch