



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an early end to tenancy and an order of possession, pursuant to section 56; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 15 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The hearing began at 11:00 a.m. with only me present. The landlord called in late at 11:01 a.m. At 11:04 a.m., the landlord unexpectedly disconnected from the hearing and then returned at 11:05 a.m., stating that he accidentally ended the call. The hearing ended at 11:15 a.m.

Preliminary Issue – Service of Landlord’s Application

When initially asked about service of his application of dispute resolution hearing package, the landlord was not prepared to provide evidence. I provided him with 15 minutes of hearing time to confirm evidence regarding service. I asked the landlord the same questions in different ways regarding service, over five times during the hearing.

Initially, the landlord stated that he served the tenants on June 15, 2018. He then claimed that he served them by registered mail with his evidence on June 19, 2018. When I asked the landlord how he served his application prior to the notice of hearing being generated on June 27, 2018, he claimed that he did not serve them with his

application. He then stated that he posted the application to their door on June 27, 2018 and June 28, 2018. When I asked why his evidence kept changing, the landlord became upset.

I find that the landlord provided confusing evidence regarding service of this application, changing his testimony regarding four different dates, two of which were prior to the notice of hearing date. The landlord changed his testimony when I asked how it was possible to serve documents prior to them coming into existence. Accordingly, I find that the landlord failed to prove service in accordance with section 89 of the *Act* and the tenants were not served with the landlord's application.

At the hearing, I informed the landlord that I was dismissing his application with leave to reapply, except for the filing fee. I notified him that he would be required to file a new application and pay a new filing fee, if he wished to pursue this matter further.

After I provided my decision to the landlord he asked to speak to a supervisor. I told him that he would be required to call the Residential Tenancy Branch general phone number and ask for a supervisor. He then asked for my name, after I had already provided it to him at the beginning of the hearing. I provided my name to him again with the spelling and notified him that my name would be on a copy of this decision, which would be sent to him after the hearing.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed with leave to reapply. I make no findings on the merits of the application. Leave to reapply is not an extension of any applicable limitation period.

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 30, 2018

Residential Tenancy Branch