



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, ERP, FF, O, RR, RP

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 (the 10 Day Notice) pursuant to section 46;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant, E.L-S. clarified that she is the sole legal tenant, the listed tenant, A.S-F. is her minor daughter and just an occupant. The tenant stated that she served the landlord with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 27, 2018. The landlord disputed that no such package was served or received. The tenant clarified that due to the Canada Post Labour Action, the package has not likely been delivered, but that the Notice of Hearing Package was sent on 3 different dates to the landlord via email on October 24, 27 and 30th of 2018. The landlord confirmed receipt of the email with the Notice of Hearing attachment only. The landlord stated that no evidence was received. The landlord also argued that she only attended the hearing as a result of responding to an emailed evidence submission warning from the Residential Tenancy Branch as she feels the tenant has not properly served her as per the Act. The landlord argued that she is unable to proceed without being able to respond to the tenant's documentary evidence.

The tenant is unable to provide sufficient evidence of proof of service of the documentary evidence.

I find based upon the direct testimony of both parties that the landlord has not been properly served with the submitted documentary evidence. Although the landlord received the notice of hearing package via email by consent, the landlord has argued that no documentary evidence has been received from the tenant. Due to the ineffective service of the documentary evidence the landlord is unable to properly respond to the tenant's application and proceed with the hearing. As such, the tenant's application is dismissed with leave to reapply. 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: November 30, 2018

Residential Tenancy Branch