



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT MNDCT**

Introduction

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

- Authorization to recover the filing fees from the landlord pursuant to section 72; and
- A monetary order for damages or compensation pursuant to section 67.

The tenant attended the hearing, accompanied by her advocate, DH. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:42 P.M. to enable the landlord to call into this hearing scheduled for 1:30 P.M. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the tenant, her advocate and I were the only ones who had called into this teleconference.

Preliminary Issue- Service of the Application for Dispute Resolution

The tenant testified she served the landlord with the application for dispute resolution by sending it by registered mail to the landlord on April 10, 2019. The tenant testified that some time prior to the hearing, she had cleaned out her purse where she had kept the tracking receipt. By mistake, the tenant had thrown out the tracking receipt and was unable to advise me of the tracking number.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure states:

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.

Residential Tenancy Branch Policy Guideline PG-12 [Service Provisions] provides guidance to landlords and tenants regarding how to provide proof of service of documents in accordance with the service provisions set out in the Act.

Proof of service by Registered Mail should include the original Canada Post Registered Mail receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report.

...

Failure to prove service may result in the matter being dismissed, with or without leave to reapply. Adjournments to prove service are given only in unusual circumstances.

The purpose of serving documents under the Legislation is to notify the parties being served of matters relating to the Legislation, the tenancy agreement, a dispute resolution proceeding or a review. Another purpose of providing the documents is to allow the other party to prepare for the hearing and gather documents they may need to serve and submit as evidence in support of their position.

I find that procedural fairness requires that I be satisfied the landlord has been served with the application for dispute resolution. Given the absence of any evidence from the landlord and the tenant's inability to provide a tracking number to prove the landlord was served with a copy of the application; I am not satisfied the landlord has been served with the tenant's application for dispute resolution. Consequently, I dismiss the tenant's application with leave to reapply.

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: July 09, 2019

Residential Tenancy Branch