



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held on July 29, 2019. The Tenant applied for monetary compensation, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing. The Tenant also attended the hearing. The Tenant's assistant was present, but stated she was not acting as the Tenant's agent, and was only there in case she was asked to help, by the Tenant. The Tenant's assistant stated that she had difficulty understanding the nature of the Tenant's application, and the Tenant would not listen to her advice, so there isn't anything else she can do. The Tenant's assistant did not provide any direct statements regarding service of any documentation.

The hearing lasted nearly 40 minutes, and the Tenant had to be reminded numerous times not to speak over top of people. The Tenant had an extremely difficult time answering questions, although I was able to confirm that she could hear me, and understood the questions I was asking with respect to service of her documentation (Notice of Hearing, and evidence). In an attempt to gain clarity, I asked the Tenant several different ways, at several different times in the hearing whether or not she served the Landlord with her Notice of Hearing and her evidence.

There was substantial amount of confusion during the hearing with respect to what the nature and basis was for the Tenant's application. The Landlord did not fully understand the application against him. Further, the Tenant's assistant was also unable to elaborate and help the Tenant, as she had been provided little to no information from the Tenant. It appeared as though the Landlord was not served with the full Notice of Hearing, which lays out the issues for this hearing, along with important procedural and evidentiary

rules. I explained the importance of the applicant (the Tenant) serving the other party (the Landlord) with the full Notice of Hearing, as without this document, it is difficult for the respondent to understand the nature and basis of the claim. After asking the Tenant numerous ways how or if she served the Landlord with her application and evidence (Notice of Hearing), and after she continually failed to provide clear answers, she disconnected from the hearing without notice. I remained on the line for several minutes (with the Landlord and the Tenant's assistant) waiting for the Tenant to reconnect. However, she did not appear. At this point, and since the Tenant had been given ample opportunity to speak to how she served her documentation, I concluded the hearing, and proceeded to make a decision.

The Tenant was asked numerous times but was unable to explain what she served to the Landlord, and when. As a result, the Tenant has not met the onus placed on her to satisfy me that she has sufficiently served the Landlord with the Notice of Hearing, and evidence, pursuant to section 89 of the Act. As such, 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 29, 2019

Residential Tenancy Branch