



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for monetary compensation for damages, to retain the security deposit towards compensation owed, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

Two agents for the Landlord (the “Landlord”) were present for the hearing and were affirmed to be truthful in their testimony. No one called in for the Tenant during the duration of the hearing. The Landlord stated that the Tenant was served by email on June 19, 2019 and confirmed that they emailed the Notice of Dispute Resolution Proceeding package and a copy of their evidence. The Landlord had received an order for substituted service dated June 20, 2019 with authorization to serve the Tenant by email. The Landlord confirmed that the documents were emailed to the Tenant at the same email address as indicated in the substituted service decision.

In the substituted service decision dated June 20, 2019, the Landlord was also ordered to serve a copy of the decision to the Tenant so that the Tenant was aware of the Landlord’s authorization to serve by email. However, if the documents were served to the Tenant by email on June 19, 2019, I find that a copy of the decision could not have been served given that this was one day prior to the decision being issued. Thus, I find that the Tenant may not have been aware that the Landlord was able to serve the documents by email.

In the absence of documentary evidence that would confirm the date of service to the Tenant by email or that a copy of the substituted decision was sent to the Tenant, I am

not satisfied that the Tenant was served as authorized in the substituted service decision dated June 20, 2019.

As the date discrepancy was not noticed until after the hearing, the hearing continued and testimony and evidence regarding the Landlord's claims was heard. However, in the absence of evidence to confirm service of the hearing documents, evidence and substituted service decision, I find that it would be unfair to make a decision on this matter. Instead, I dismiss the Landlord's application with leave to reapply. No findings of fact or law have been made regarding the dispute.

Conclusion

Due to a service issue, the Application for Dispute Resolution 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: October 1, 2019

Residential Tenancy Branch