



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, OPR, 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 unpaid rent, to retain the security deposit towards compensation owed, for an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”), and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The Landlord was present for the hearing while no one called in for the Tenant during the approximately 20 minutes that the phone line was monitored. The Landlord was affirmed to be truthful in his testimony and stated that the Tenant was served with the Notice of Dispute Resolution Proceeding package and a copy of his evidence on November 18, 2019 when the documents were posted on the Tenant’s door. The Landlord stated that the package was posted on the Tenant’s door by his lawyer.

The Landlord submitted into evidence what appears to be the package of documents given to the Tenant on November 18, 2019 which includes a letter from the Landlord’s lawyer requesting an adjournment and a copy of the Landlord’s evidence. The Notice of Dispute Resolution Proceeding letter provided by the Residential Tenancy Branch is not included. The Landlord also submitted a photo of the envelope posted on the door which includes a description that it was served on November 18, 2019, although the Landlord provided testimony that this was a photo of the 10 Day Notice posted on the Tenant’s door on October 2, 2019.

However, following the hearing the application date and date the Notice of Dispute Resolution Proceeding documents were provided was confirmed. The Landlord filed the

Application for Dispute Resolution on October 11, 2019 and the Notice of Dispute Resolution Proceeding was provided to the Landlord on October 22, 2019 for the Landlord to serve to the Tenant by October 25, 2019; within three days as required by the *Residential Tenancy Branch Rules of Procedure*.

Although I accept that the Landlord's evidence was served to the Tenant on November 18, 2019, in the absence of sufficient documentary evidence or testimony to confirm that the Notice of Dispute Resolution Proceeding package was served to the Tenant within three days of receipt, I am not satisfied that it was. The Tenant has a right to know about the dispute resolution proceeding and to attend the hearing to present testimony and evidence in response to the claims. Therefore, in the absence of sufficient evidence to confirm service of the required hearing documents, I dismiss the Landlord's application with leave to reapply.

Conclusion

The Landlord's 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: December 06, 2019

Residential Tenancy Branch