



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR FFL

Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for an order of possession based on a 10 Day Notice to End Tenancy dated November 3, 2019 (10 Day Notice), for a monetary order in the amount of \$2,500.00 for unpaid rent or utilities, and to recover the cost of the filing fee.

The landlord, an agent for the landlord GC (agent) and the tenants attended the teleconference hearing. The parties were affirmed and an opportunity to ask questions was provided to both parties.

While discussing the service of the Notice of Dispute Resolution Proceeding document dated December 4, 2019 (Notice of Hearing), the tenants stated that they were not served until recently and did not have the opportunity to respond to the application. The agent admitted that they mistakenly thought the email sent by the Residential Tenancy Branch (RTB) on December 4, 2019, was related to the tenants' application and as a result, did not serve the Notice of Hearing for this application until mid-January 2020 instead of by December 7, 2019, as indicated in the email to the landlord from the RTB.

Both parties have the right to a fair hearing. The tenants would not be aware of the claim against them without having received the Notice of Hearing, application and documentary evidence in accordance with the Rules of Procedure (Rules). Based on the agent admitting to failing to serve the Notice of Hearing, application and documentary evidence in a timely manner and being over one month late, I find that the tenants have been prejudiced and that this matter must be dismissed with leave to reapply due to a service issue.

Based on the above, I dismiss the landlords' application with leave to reapply as I am not satisfied that the tenants were served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

I do not grant the filing fee as a result of the service issue.

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the Act.

The filing fee is not granted as noted above.

This decision will be emailed to the parties at the email addresses confirmed by the parties during the hearing.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: January 24, 2020

Residential Tenancy Branch