



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, PSF, LRE, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking an order for the Landlords to comply with the Act, regulations, or tenancy agreement, an order for the Landlords to provide services or facilities, an order restricting or setting conditions on the Landlords’ right to enter the rental unit, and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlords’ Legal Counsel, who provided affirmed testimony. The Tenant did not attend. The Notice of Dispute Resolution Proceeding states the date and time of the hearing, that the hearing will be conducted by telephone conference call and provides the phone number and access code for the hearing. It also instructs participants that they are to call into the hearing themselves no more than five minutes before the start of the hearing. I confirmed that the details shown in the Notice of Dispute Resolution Proceeding were correct.

Although Legal Counsel for the Landlords attended the hearing at the scheduled time, they stated that neither they, nor the Landlords, were served with a copy of the Application or the Notice of Dispute Resolution Proceeding in relation to this matter and only became aware of this hearing when the Landlords contacted the Residential Tenancy Branch (the “Branch”) in relation to filing their own Application. Further to this, Legal Counsel for the landlords believed this hearing was in relation to different matters than those claimed by the Tenant in the Application. Although the line remained open for 11 minutes, neither the Applicant nor an agent acting on their behalf appeared to provide evidence or testimony for my consideration.

The ability to know the case against you and to submit evidence in your defense is fundamental to the dispute resolution process. Section 59 (3) of the Act states that a person who makes an application for dispute resolution must give a copy of the application to the other party within three days of making it and rule 3.1 of the

Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) states that, within three days of the Notice of Dispute Resolution Proceeding Package being made available to the applicant by the Residential Tenancy Branch, the Applicant must serve on the respondent the Notice of Dispute Resolution Proceeding, the application for Dispute Resolution, the Respondent Instructions for Dispute Resolution, the dispute resolution fact sheet, and any other evidence submitted to the Branch. Further to this, rule 3.5 of the Rules of Procedure states that at the hearing, the Applicant must be prepared to satisfy the Arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the *Act* and the Rules of Procedure. Rule 7.3 of the Rules of Procedure also states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to reapply.

I accept the undisputed and affirmed testimony of Legal Counsel for the Landlords that the Landlords were not served with a copy of the Application or the Notice of Dispute Resolution Proceeding, and as a result, I am not satisfied that the Landlords knew the case against them or had the opportunity to respond. Further to this, neither the Tenant nor an agent acting on their behalf attended the hearing. As a result, I dismiss the Tenant’s Application with leave to reapply.

Conclusion

The Tenants’ Application seeking an order for the Landlords to comply with the *Act*, regulations, or tenancy agreement, an order for the Landlords to provide services or facilities, an order restricting or setting conditions on the Landlords’ right to enter the rental unit, and recovery of the filing fee, 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: February 27, 2020

Residential Tenancy Branch