



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FFL

Introduction

On March 6, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an order of possession; for a monetary order for unpaid rent or utilities; and to recover the cost of the filing fee. On March 12, 2020 the Landlord amended their claim to increase the amount of compensation for unpaid rent. The matter was set for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenants did not. The Landlord was assisted by his son, Mr. A.D. The Landlord testified that they served the Tenants with the Notice of Dispute Resolution Proceeding using registered mail.

The Landlord was unable to provide the specific date that the registered mail was sent. The Landlord was unable to provide a registered mail receipt or tracking number in support of their testimony. The Landlord testified that they did not have any conversations with the Tenants regarding the hearing or other tenancy issues since the mail was sent.

The Landlord was given 28 minutes to locate their evidence, but was unable to provide the date of service, or proof of service, of the notice of hearing.

Analysis

The Residential Tenancy Branch Rules of Procedure 10.9 provides that an applicant must provide proof of service by submitting RTB 9 Proof of Service – Notice of a Dispute Resolution form one day after serving the Notice of Dispute Resolution Proceeding Package and at least two days before the hearing. Failure to do this may result in the application being dismissed or the hearing being rescheduled or adjourned to a later date.

A fundamental principle of administrative fairness and natural justice is that a party to a proceeding has the right to receive notice of a proceeding and have an opportunity to attend or respond.

I find that the Landlord provided insufficient evidence that the Tenants were served with the Notice of Dispute Resolution Proceeding in accordance with the service provisions in sections 89 and 90 of the Act.

The Landlord's application for Dispute Resolution is dismissed with leave to reapply.

If the Landlord reapplies for a new hearing, the Landlord must serve the Notice of Dispute Resolution Proceeding to the respondents and must provide proof of service to the Arbitrator.

Conclusion

The Landlord provided insufficient evidence that the Tenants were served with the Notice of Dispute Resolution Proceeding in accordance with the service provisions in sections 89 and 90 of the Act.

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: May 04, 2020

Residential Tenancy Branch