



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MetCap Living Management Inc. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and to recover the \$100.00 cost of his Application filing fee.

The Tenant and an agent for the Landlord, K.W. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process.

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Early in the hearing, I enquired about service of the Application and Notice of Hearing documents, as well as the documentary evidence that the Tenant had submitted to the Residential Tenancy Branch ("RTB"). Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant hesitated when he answered my service questions; however, he said he had served the Landlord with the Application and Notice of Hearing documents by emailing them to the Agent on May 11, 2020.

The Agent said that the Tenant sent him an email with the subject line: "Here Is Your Evidence" and asking the Agent for his "number", among other comments. The Agent said the Tenant had not attached any documents to this email. He said he did not find out about the hearing, until he received an automatic reminder of the hearing from the Residential Tenancy Branch the day before the hearing.

Based on the testimony of the Parties, I find it more likely than not that the Tenant failed to serve the Landlord with the Notice of Hearing documents and his documentary submissions pursuant to the Act. As such, the Landlord did not know about the case that the Tenant put forward to the RTB, nor did they have an opportunity to respond to this case, which is contrary to the Act, the Rules of Procedure, and to the rules of administrative fairness.

Accordingly, I dismiss the Tenant's Application with leave to reapply.

Conclusion

The Tenant's Application is dismissed with leave to reapply, because he failed to serve the Landlord with the required documents, contrary to the Act.

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: June 09, 2020

Residential Tenancy Branch