



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, LRE

Introduction

This hearing dealt with an application for dispute resolution by the tenant pursuant to the *Residential Tenancy Act*. The tenant applied to cancel a notice to end tenancy for cause and for an order directing the landlord to comply with the *Act*. The tenant also applied for an order restricting the landlord's right to enter the rental unit.

The tenant attended this hearing. The landlord did not attend the hearing. The tenant was given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary and procedural matters

As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. Section 59 (3) of the *Residential Tenancy Act* states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

The purpose of serving a notice of hearing and application for dispute resolution to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent to the landlord by registered mail. The tenant did not file proof of having served the landlord by registered mail.

The tenant stated that a friend of his applied on his behalf due to limited service in the area of the rental unit. The tenant stated that his friend served the landlord with the notice of hearing by registered mail but did not provide the tenant a tracking number or any proof of service.

Rule 3.5 of the *Rules of Procedure* addresses proof of service required at the dispute resolution hearing. At the hearing, the parties must be prepared to demonstrate to the satisfaction of the arbitrator that the other party was served with all evidence as required by the Act and these Rules of Procedure.

In this case the tenant stated that he had served the landlord with the notice of hearing package but did not provide proof of having done so. Approximately 25 minutes into the hearing the tenant exited the call and did not return. I waited for 15 minutes before I ended the hearing by conference call. It is possible that the tenant lost connection due to poor service.

Conclusion

The tenant's application 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: July 31, 2020

Residential Tenancy Branch