



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an application for dispute resolution by the landlord, pursuant to sections 67 and 72 of the *Residential Tenancy Act*. The landlord applied for a monetary order to recover losses suffered due to unpaid rent and a cancelled cheque from the tenant. The landlord also applied for the recovery of the filing fee.

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

Preliminary and procedural matters

As the tenant 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 landlord testified that that she was not the person who made the application and therefore was not sure of whether the tenant had been served with the Application for Dispute Resolution and Notice of Hearing.

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 the hearing package as required by the Act and these Rules of Procedure.

In this case the landlord's agent could not provide any information on the service of the hearing package because she had not made the application herself. Therefore, I dismiss the landlord's application with leave to reapply.

Conclusion

The landlord'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: August 25, 2020

Residential Tenancy Branch