



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act"), for:

- a monetary order for unpaid rent, for damage to the rental unit and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 16 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the owner of the rental unit that is the subject of this application.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package on May 16, 2020, by way of email. The landlord claimed that he provided 24 emails as proofs of service, which he confirmed were all photographs of computer screens.

The landlord did not provide a copy of the actual email documents, any email responses from the tenants or any attachments to emails. The photograph of a computer screen, which the landlord said was a response from the tenants on May 17, 2020, did not show that it was a reply to any email from the landlord, does not include an email from the landlord, and does not even show what email address it was sent to, stating "to me."

The director's order, dated March 30, 2020, states the following regarding email service during the state of emergency (my emphasis added):

Pursuant to sections 71(2)(b) and (c) of the Residential Tenancy Act and sections 64(2)(b) and (c) of the Manufactured Home Park Tenancy Act, I order that, until the declaration of the state of emergency made under the Emergency Program Act on March 18, 2020 is cancelled or expires without being extended:

- a document of the type described in section 88 or 89 of the Residential Tenancy Act or section 81 or 82 of the Manufactured Home Park Tenancy Act has been sufficiently given or served for the purposes of the applicable Act if the document is given or served on the person in one of the following ways:*
 - the document is emailed to the email address of the person to whom the document is to be given or served, and **that person confirms receipt of the document by way of return email** in which case the document is deemed to have been received on the date the person confirms receipt;*
 - the document is emailed to the email address of the person to whom the document is to be given or served, and **that person responds to the email without identifying an issue with the transmission or viewing of the document, or with their understanding of the document**, in which case the document is deemed to have been received on the date the person responds; or*
 - the document is emailed to the **email address that the person to whom the document is to be given or served has routinely used to correspond about tenancy matters from an email address that the person giving or serving the document has routinely used for such correspondence**, in which case the document is deemed to have been received three days after it was emailed.*

Accordingly, I find that the landlord failed to provide sufficient evidence that the tenants were served with the landlord's application by email. The landlord did not provide copies of the actual emails or proof that the tenants could receive email service at specific email addresses. The landlord failed to show that the tenants' and landlord's email addresses were routinely used for tenancy matters. These requirements are all noted in the above director's order to confirm or deem service of the email.

I do not find photographs of dark computer screens to be sufficient to prove service by email. Many of the photographs were hard to see or read, they had dark images, and did not show the full content of the emails. The landlord did not provide copies of the actual email documents to show what email it was sent to, what email it was sent from,

what the complete content of the emails were, whether the emails were responded to, what emails were responded to with the original email, and any such information.

I notified the landlord that his application was dismissed with leave to reapply, except for the filing fee. I informed him that he could file a new application and pay a new filing fee, if he wished to pursue this application further.

Preliminary Issue – Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* states the following:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator’s direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

During the hearing, I allowed the landlord to find his computer, log into the computer and provide me with service information that he did not have in front of him.

Throughout the hearing, the landlord was upset and continuously interrupted me. Every time I attempted to answer the landlord’s many questions, he interrupted me and spoke at the same time as me. The landlord was upset and angry at my decision to dismiss his application. The landlord became louder and more upset, as the hearing went on. When I asked the landlord to allow me to speak, he continued to get upset and interrupt me. The landlord made a number of angry comments such as “no wonder everyone hates the RTB” and “I bloody well have to spend another 100 bucks again?” and “people like you support tenants” and “these tenants are squatters and criminals.”

I confirmed the landlord’s email address in order to send him a copy of my decision, thanked him for attending the hearing and concluded the conference.

I caution the landlord to not engage in the same inappropriate behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and he may be excluded from future hearings. In that case, a decision will be made in the absence of the landlord.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of 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: September 18, 2020

Residential Tenancy Branch