



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL, FFT

Introduction and Preliminary Matters

On September 8, 2020, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") pursuant to Section 49 of the *Residential Tenancy Act* (the "Act") and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing; however, the Landlord did not make an appearance at any point during the 11-minute hearing. All in attendance provided a solemn affirmation.

The Tenant stated that despite the Notice of Hearing package being made available to him on September 15, 2020, he did not serve this package to the Landlord until September 29 or 30, 2020. In addition, he served this package to the Landlord by email. Based on this undisputed testimony, as the Tenant did not serve this package in accordance with Section 89 of the *Act* or in accordance with the timeframe requirements of Rule 3.1 of the Rules of Procedure, I am not satisfied that the Landlord was served with the Notice of Hearing package. As such, I dismiss the Tenant's Application without leave to reapply.

As the Tenant was not successful in this Application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

As the Notice of Hearing package was not served to the Landlord pursuant to Section 89 of the *Act* or in accordance with the timeframe requirements of Rule 3.1 of the Rules of Procedure, I dismiss the Tenant's Application without 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: October 30, 2020

Residential Tenancy Branch