



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *RR, MNDC, CNC, CNR, OLC, RP, PSF, LRE*

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for multiple remedies including an application to set aside notices to end tenancy for cause and unpaid rent. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves.

As both parties were in attendance, I confirmed service of documents. The landlord stated that he had not received a notice of hearing or any other documents from the tenant and found out about today's hearing when he received an email from the Residential Tenancy Branch. The landlord stated that he was not aware of the nature of the tenant's claim against him and did not have information and codes required to upload evidence and join the conference call. The landlord testified that he contacted the Residential Tenancy Branch office and was given the call-in information.

The tenant stated that she dropped off the notice of hearing package to the landlord's doorstep but did not file any proof of service. The tenant also informed me that she had moved out of the rental unit on September 13, 2020.

Preliminary Matters

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 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.

Rule 3 of the Residential Tenancy Branch Rules of Procedure addresses:

Serving the application and submitting and exchanging evidence

Rule 3.1: lists documents that must be served with the Notice of Dispute Resolution Proceeding Package. The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution
- b) the Respondent Instructions for Dispute Resolution

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.

In this case, I accept the landlord's testimony that he was not provided with a copy of the tenant's application which had the dispute access code and information on uploading evidence. I also accept that the landlord contacted the Branch office and was provided with a code to join the hearing by conference call.

Since the landlord was unable to upload evidence to respond to the tenant's claim, conducting the hearing and using the tenant's evidence alone in the making of the decision, would prejudice the landlord and result in a breach of the principles of natural justice. Therefore, I am dismissing the tenant's application.

Conclusion

The tenant's application is dismissed.

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: November 06, 2020

Residential Tenancy Branch