



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Property Management
Division and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MND, MNR, FF

Introduction

This hearing dealt with an application for dispute resolution by the landlord, pursuant to sections 67, 38 and 72 of the *Residential Tenancy Act*. The landlord applied for a monetary order to recover losses suffered due to unpaid rent, cost of cleaning and 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 the Application for Dispute Resolution and Notice of Hearing packages were sent to the tenants by registered mail to the workplace of one of the tenants. The landlord stated one package was returned to her but the other was not.

The landlord submitted that the tenant had asked her via email, to use his workplace address for correspondence. The landlord did not file a copy of this email into evidence. The landlord also did not file proof of having served the tenant by registered mail.

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 other party was served with all evidence as required by the Act and these Rules of Procedure.

In this case the landlord stated that she had served the tenant with the notice of hearing package but did not provide proof of having done so.

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: December 03, 2020

Residential Tenancy Branch