



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

This hearing was scheduled on an urgent basis to deal with a tenant's application for emergency repairs.

Both parties appeared at the hearing and were affirmed. The parties confirmed they were not making a recording of the proceeding and I ordered them not to do so.

I proceeded to explore service of the hearing materials.

The tenant testified that she served the landlord with the proceeding package, in person, approximately one or two weeks ago. The landlord confirmed that to be accurate.

The tenant testified that she did not serve the landlord with the evidence she had provided to the Residential Tenancy Branch with the exception of a note she wrote to him requesting repairs. The landlord confirmed he had not received an evidence from the tenant except for the tenant's note. I confirmed I was provided the same note the landlord had received from the tenant.

I noted that the tenant's proceeding package had been generated on March 30, 2021 yet it was only served to the landlord one or two weeks ago, which is very late since an Application for Dispute Resolution and Notice of Dispute Resolution Proceeding is to be served within three days of receiving the proceeding package from the Residential Tenancy Branch. The tenant stated she served the landlord late because she had "a lot of things on the go" with her son and other children.

Aside from the requirement to serve the respondent within three days, section 59 of the Act also requires that an applicant provide full particulars of the matters under dispute.

The Rules of Procedure require an applicant to serve the respondent with all of the same evidence provided to the Residential Tenancy Branch as soon as possible but no later than 14 clear days before the hearing date. The requirements of section 59 of the Act and the Rules of Procedure and in keeping with the principles of natural justice and to ensure the respondent has sufficient opportunity to prepare a response and gather evidence to refute the claims against them.

The landlord stated he was not prepared to proceed today given the insufficient service upon him.

I find the tenant failed to comply with the requirements of section 59 of the Act and the Rules of Procedure and I declined to hear this case. **The tenant's Application for Dispute Resolution 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: May 17, 2021

Residential Tenancy Branch