



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, FFT

Introduction

The tenants filed an Application for Dispute Resolution (the “Application”) on May 18, 2021 seeking repairs to the rental unit, and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 13, 2021.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing.

Preliminary Matter

The tenant stated they delivered notice of this hearing in person to the landlord. The landlord stated they received the notice on June 24, 2021. This was the tenant’s application and “some notes/documents”, not within the time required time period. In response to this, the tenants stated they were “sure it was 14 days” in advance of this hearing.

The tenants stated they received the prepared evidence of the landlord on September 3.

The *Residential Tenancy Branch Rules of Procedures*, Rule 3, provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

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 . . .

- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

One form that is provided to the parties in this process is the *Residential Tenancies Fact Sheet – The Dispute Resolution Process* (RTB-114). This form sets out this three-day timeline. Note this is separate from the end date for providing *evidence*, where “an applicant must service and submit *evidence* as soon as possible so that it is received not less than 14 days before the hearing.”

I find the tenants did not serve the Notice to the landlord in line with the *Rules of Procedure* for this hearing. This prejudiced the landlord as the respondent in this hearing. For this reason, I dismiss the tenants’ Application, with leave to reapply.

Conclusion

I dismiss the tenants’ Application, with leave to reapply. The portion of the Application wherein the tenants claim reimbursement of the Application filing fee is dismissed *without* leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 15, 2021

Residential Tenancy Branch