



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LRE OLC FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on October 29, 2021. The Tenants applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

One of the Tenants, P.M., attended the hearing and provided testimony. The Landlord was represented at the hearing by an agent, P.S. Both parties provided affirmed testimony and confirmed they understood Rule 6.11.

Preliminary Matters - Service

The Tenant explained that she never served the Landlord with the Notice of Dispute Resolution Proceeding because she never received a copy from our office. The Tenant stated that she filed her application on July 2, 2021. Following this, the Tenant stated that she called our office on July 5, 2021, to ask about uploading evidence, and again on July 12, 2021, to ask about the status of her application and to get information about service. The Tenant stated she was told to wait for her Notice of Dispute Resolution Proceeding before serving her evidence to the Landlord.

The Tenant stated that she did not call our office again after that date, but sent an email on July 16, 2021, to say that she was having trouble uploading documents. The Tenant stated she did not get an email response until sometime in August. The Tenant stated that she heard nothing more and took no further actions regarding her application until October 8, 2021, when she got an email reminder about her upcoming hearing. Following this, the Tenant tried to serve the Landlord with her evidence, and an amendment (for monetary compensation) around October 15, 2021.

The Landlord confirmed they got some of the Tenant's evidence, but they never got any sort of Notice of Dispute Resolution from the Tenant, explaining what the hearing was about, or what the particulars were.

Upon review of the documentation and the application, I note the Tenants filed their application on July 2, 2021. The Tenants uploaded some evidence on July 5, 2021, and more evidence on July 14, 2021. Records indicate the Tenants were sent a copy of the Notice of Dispute Resolution Proceeding via email on July 19, 2021, to the email address she provided on the application. This email was sent at 1:39 pm on July 19, 2021. This package contained important hearing information and instructions, which the Tenants stated they never got.

Although the Tenant asserts the email was never sent to her, as she alleges there was a system error on our end. I find there is insufficient evidence to support there was any sort of malfunction which caused this hearing package to not be sent. In any event, based on the Tenant's statements, it appears she was aware she should wait until she was given a Notice of Dispute Resolution before serving her evidence, which indicates she was aware that she should be receiving a Notice of Dispute Resolution from our office.

Although the Tenants state the Notice was never received, which is why it was never served to the Landlord, I find the Tenants failed to diligently pursue their application. In saying this, I note the Tenants were aware they should be receiving a Notice of Dispute Resolution Proceeding, yet there is no evidence that they called back to our office anytime after mid July 2021. I find the Tenants should have at least followed up a little more diligently, especially given they were intending to amend their claim to add a significant monetary amount.

In any event, since the Tenant failed to sufficiently serve her application and Notice of Dispute Resolution, and failed to diligently follow up with her application, I dismiss her application, in full, with leave. The Tenants must re-apply and clearly lay out their claim. I encourage the Tenants to adhere to the service requirements under the Act and the Rules leading up to the next hearing. Unless the parties have an agreement otherwise, they must serve each other in accordance with the Rules of Procedure and the Act, which governs how documents are to be served.

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 29, 2021