



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RR, LRE, OLC, MNDCT, PSF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenants stated that the landlords were served with the notice of hearing package via email on October 9, 2021 by prior consent. The landlords dispute this claim arguing that the notice of hearing was never served. The landlords confirmed that an email was received, but that a copy of the notice of hearing was not included nor has the landlords ever received one. The landlords stated that they were only advised of the scheduled hearing via email from the Residential Tenancy Branch (RTB) for evidence date

deadline for submissions. The landlords stated that a courtesy copy of the notice was sent by the RTB to the landlords.

Extensive discussions took place until 53 minutes past the start of the scheduled hearing time. The tenants confirmed that no prior consent was given by the landlords for service of the Application and Hearing Package. The landlords provided testimony during the hearing that they were not properly served and did not consent to service of the hearing package as stated by the tenants. The tenants were unable to reference any proof of service documents relating to the email service consent by the landlords for the notice of hearing package. The landlords further argued that they are not in possession of any particulars of the tenant's application.

Pursuant to section 89 of the Act, I find that the tenants failed to properly serve the Application and the Notice of Hearing Package to the landlords. On this basis, the tenants' application is dismissed with leave to reapply for lack of service. Leave to reapply is not an extension of any applicable limitation period.

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 12, 2021

Residential Tenancy Branch