



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNL-4M, FFT**

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a notice to end tenancy and to recover the cost of the filing fee.

The tenant's agent appeared. As the landlord 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.

The tenant's agent testified the Application for Dispute Resolution and Notice of Hearing were sent by email; the agent stated they do not know when as that information was not provided by the tenants.

In this case, I am not satisfied that the landlord was duly served in accordance with the Act. I have no evidence before that the landlord agreed that their email address would be used as an address for service. Further, I do not have a copy of that email and a date to which it was said to be sent was unknown. Therefore, I dismiss the tenant's application without leave to reapply.

Although I have dismissed the tenants' application without leave to reapply to cancel a notice to end tenancy and in most circumstances the landlord would be entitled to an order of possession pursuant to section 55 of the Act. However, in order to end the tenancy, the notice to end tenancy must be in compliance with section 52 of the Act. I find the letter provide is not valid as it is not in the proper form.

Conclusion

The tenant's application is dismissed without leave to reapply. The landlord is not entitled to an order of possession as the notice to end tenancy does not comply with the Act.

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