



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MENKIS CONSTRUCTION LTD and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT RPP FFT

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for a monetary order in the amount of \$24,166.98.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for the return of personal property and to recover the cost of the filing fee.

The tenant and a support person for the tenant, ND (support) attended the teleconference hearing. The tenant was affirmed and the hearing process was explained to the tenant. The tenant was also provided an opportunity to ask questions during the hearing.

As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated November 3, 2021 (Notice of Hearing), the application and documentary evidence were considered. The tenant provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the landlord by registered mail on November 6, 2021. The tenant provided a registered mail tracking number in evidence, which has been included on the style of cause for ease of reference. The tenant testified that the address provided in the application was incorrect and during the hearing, the address of the landlord was corrected as a result, pursuant to section 64(3)(c) of the Act. The tenant was asked to present evidence of what address the registered mail was sent to and a copy of the registered mail package was presented, which was submitted in evidence. Unfortunately, the mailing address was covered with a Canada Post sticker in the photo, which prevented the address from showing in evidence.

Both parties have the right to a fair hearing. The landlord would not be aware of the hearing without having received the Notice of Hearing and application. Therefore, I

dismiss the tenant's application **with leave to reapply** as I am not satisfied that the landlord has been sufficiently served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

I do not grant the filing fee due to the service issue.

Preliminary and Procedural Matters

The tenant was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The tenant was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the tenant was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The tenant did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the tenant confirmed their email address at the outset of the hearing and stated that they understood that the decision would be emailed to them. As the tenant did not have an email address for the landlord, the tenant was advised that the decision would be sent by regular mail to the landlord.

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the Act.

This decision will be emailed to the tenant and will be sent by regular mail to the landlord.

I do not grant the filing fee due to the service issue.

The tenant has liberty to reapply for their monetary claim. The tenant raised the issue of a previous decision, the file number of which has been included on the style of cause for ease of reference (Previous Decision). As the tenant stated that they believe the landlord failed to comply with the order of another arbitrator, the tenant was informed that the tenant may apply for remedy under the Act for compensation due to the non-

compliance with order made by another arbitrator in the Previous Decision. I make no findings on the return of personal property due to the service issue described above.

The tenant was also informed during the hearing that they may contact the RTB *Compliance and Enforcement Unit* (RTB CEU) to seek an investigation of the landlord due to the alleged non-compliance of the Previous Decision order, which I note included a deadline of October 10, 2021 for the order specified. The undersigned will not be involved in the consideration of an investigation by the RTB CEU.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 31, 2021

Residential Tenancy Branch