



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR

This hearing was convened in response to an application by the Landlord for an order of possession pursuant to section 55 of the *Residential Tenancy Act* (the “Act”). The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

The Tenant states that they did not receive the Landlord’s application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) until January 10, 2022 when the Tenant found it on the ground. The Tenant states that they immediately when to the Residential Tenancy Branch (the “RTB”) to provide evidence of the payment of rents but was unable to upload the evidence for this hearing as they were too late. The Landlord confirms making their application on December 6, 2021 and states that the Hearing Package was posted on the door of the unit on December 17, 2021. The Landlord has no signed and witnessed proof of this service. The Landlord provides a photo that the Landlord confirms does carry any date stamp.

Section 59(3) of the Act provides that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director. Given the Tenant’s evidence that the Hearing Package was not received until January 10, 2022 and as the Landlord has no supporting evidence of the date of service, I find on a balance of probabilities that the Landlord has not substantiated that the Hearing Package was served to the Tenant within the time allowed. I therefore dismiss the application with leave to reapply.

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

Dated: January 14, 2022

Residential Tenancy Branch