



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The tenant, M.L. attended the hearing via conference call and provided affirmed testimony. The named landlords, K.R., G.M. and the landlord's agent, C.M. on behalf of W.Y.M 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 tenant, P.B. did not attend. The named landlord, W.Y.M. did not attend.

Extensive discussions over a 33 minutes period revealed that the tenant, P.B. was no longer a tenant since 2010 and that his name was added to the application in error. The tenant further stated that the notice of hearing package was served to the 3 named landlords on January 9, 2022, just 5 days before the scheduled hearing time. The landlords' agent, C.M. (the landlords) stated that no such notice was served. The landlords stated that only documentary evidence was received on the 9th of January.

Attempts at proceeding with the hearing ended when the landlords revealed through discussions that they were not clear on the listed issues. I also note that the tenant was

not able to provide any supporting evidence of serving the notice of hearing package late.

Section 59 (3) of the Act states in part the applicant must serve to the respondent the application for dispute and the notice of hearing within 3 days of receiving it. The tenant confirmed receiving the hearing package dated July 14, 2021, but not serving it until January 9, 2022 approximately 6 months later. I also note that based upon the submission of the landlords that they were not in receipt of the listed issues filed by the tenant and were unclear of the purpose of the hearing. On this basis, I find that there is a bias against the landlords to allow them a reasonable opportunity in responding to the tenant's application. The tenant's application is dismissed with leave to reapply for lack of proper 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: January 14, 2022

Residential Tenancy Branch