



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR MNDCT OLC LRE

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities received September 14, 2021, for a monetary claim of \$10,000.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, and for an order to suspend or set limits on the landlord's right to enter the rental unit, site or property.

Tenant RH (tenant) attended the teleconference hearing. The landlord and the other tenant did not attend the hearing. As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated October 1, 2021 (Notice of Hearing), application and documentary evidence were considered.

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 decision will be sent by regular mail to the landlord.

The tenant was affirmed and could not recall the date that the tenant served the landlord in person. The tenant stated that they served someone at the office on the rental property the day the tenants received the Notice of Hearing and other documents. The tenant asked the undersigned arbitrator what the date was on the Notice of Hearing, and in response the tenant was asked if they could recall when they personally served someone at the office of the rental building and the name of the person served. The tenant could not recall a name of the person served and while they stated someone was with them when they served the documents, the tenant failed to have that person on the call to testify to service. In addition, the tenants did not submit a statement for my consideration to confirm that service was witnessed.

Analysis

Both parties have the right to a fair hearing. The landlord would not be aware of the hearing without having received the Notice of a Dispute Resolution Proceeding and application. Therefore, **I dismiss** the tenants' 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.

The filing fee has already been waived so it is not granted.

Conclusion

The tenants' 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 tenants and sent by regular mail to the landlord, as the tenant did not have an email address for the landlord.

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: February 1, 2022

Residential Tenancy Branch