



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

The Tenant filed an Application for Dispute Resolution on August 11, 2021, seeking compensation from the Landlord for monetary loss, and reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) on February 24, 2022. In the conference call hearing I explained the process and provided the attending parties the opportunity to ask questions.

Preliminary Issue – service of the Notice of Dispute Resolution

The Landlord provided they did not receive the Notice of Dispute Resolution directly from the Tenant. They received a courtesy reminder from the Residential Tenancy Branch on February 21, 2022, three days in advance of the scheduled hearing. The Landlord confirmed they did not receive evidence directly from the Tenant. The Landlord filed no documents for this hearing.

The Tenant confirmed they did not provide the Notice or their evidence directly to the Landlord. They stated their understanding that the Residential Tenancy Branch would provide notice and other information to the responding party.

The *Act* s. 59 contains the provisions for starting proceedings in a dispute resolution. Subsection (3) states: “. . . 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.”

The *Act* s. 89 gives the rules for service of the application for dispute resolution. This is by leaving a copy with the person or their agent or sending a copy via registered mail.

Additionally, the Rules of Procedure that are crafted to ensure a fair process; these specify the documents to be served by the applicant (here, the Tenant) to the respondent (here, the Landlord). These are: the Notice of Dispute Resolution Proceeding provided when applying; the Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

The Tenant did not provide a copy of the notice of dispute resolution proceeding – that document that is generated when a person applies for dispute resolution – to the Landlord. The Act requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I dismiss the Tenant's Application for Dispute Resolution for this reason.

Conclusion

I dismiss the Tenant's application for compensation, with leave to reapply. This decision does not impact any deadlines as set forth in the *Act*. The Tenant's claim for reimbursement of the filing fee is dismissed without leave to reapply.

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

Dated: February 24, 2022

Residential Tenancy Branch