



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

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

- an early end to the tenancy and an order of possession pursuant to section 56; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant attended the hearing. The landlord was represented at the hearing by its property manager ("**MB**") and assistant property manager ("**SA**").

At the outset of the hearing, the tenant stated that the landlord had failed to serve him with the dispute resolution proceeding package or the supporting evidence in a timely fashion.

The landlord made this application on April 20, 2022. The Residential Tenancy Branch (the "**RTB**") issued the notice of dispute resolution proceeding form on April 28, 2022. The RTB's practice is to immediately send a copy of the dispute resolution proceeding package to the applicant after the notice of dispute resolution proceeding is issued. RTB records show that this was done on April 29, 2022 via email. MB stated that the landlord did not receive package until May 31, 2022, and only after the landlord made inquiries to the RTB asking for it.

MB stated that the phone number the RTB used to contact the landlord was her "office number" and that when they called, she was not in. She testified that this further prolonged the landlord's efforts to obtain the dispute resolution preceding package.

MB testified that the landlord served the tenant the dispute resolution preceding package on June 1, 2022 by posting it on the door of the rental unit.

The tenant alleged that the landlord intentionally withheld the dispute resolution proceeding package from him "one week before" the hearing. He testified that he has made a freedom of information request from another government entity in relation to this application but is not yet received a response.

I make no determination as to the motives of the landlord. I only find that:

- 1) the landlord made their application on April 20, 2022

- 2) the RTB issued the notice of dispute resolution proceeding form on April 28, 2022;
- 3) the landlord contacted the RTB on May 31, 2022 seeking to obtain a copy of the dispute resolution proceeding package; and
- 4) the landlord served the dispute resolution preceding package on the tenant on June 1, 2022 by posting it on the door of the rental unit.

RTB Rule of Procedure 10.3, in part, states:

10.3 Serving the notice of dispute resolution proceeding package

The applicant must, within one day of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, [...]
- evidence submitted to the Residential Tenancy Branch [...]

The landlord did not comply with this rule. It did not serve the tenant with a copy of the dispute resolution proceeding package until over a month after it was issued by the RTB. Additionally, it did not take any steps to obtain a copy of this package for roughly five weeks after having made the application. In light of the nature of the allegations against the tenant, the type of application, and the purported urgency before ending the tenancy, I do not find the landlord's delay and inaction to be reasonable. I find that by serving the tenant with the dispute resolution proceeding package less than two weeks before the hearing, the landlord deprived the tenant of the time to prepare for this hearing that he otherwise would have been entitled to.

Additionally, the parties agree that they will be appearing at another hearing of the RTB on June 23, 2022, pursuant to two applications made by the tenant to dispute various notices to end tenancy.

In light of the facts that the landlord failed to comply with Rule 10.3 and that the parties are scheduled to appear at another hearing dealing with the end of tenancy on June 23, 2022, I find it appropriate to dismiss the landlord's application with leave to reapply.

I must also note that the tenant acted in a disruptive manner throughout the hearing. He interrupted both me and the landlord's agents when we were speaking, used profanity, and made submissions on topics that did not relate to this application. I muted the tenant on multiple occasions and advised him that I expected the parties to act in a respectful manner during the hearing. After unmuting the tenant, I confirmed that he understood what I said, and the tenant apologized and seemed contrite. He stated that with the issues he was facing in relation to the tendency caused him a great deal of stress. I accept that this may be the reason for his conduct, however, such stress does

not justify it. I caution the tenant against acting in a similar manner at the June 23, 2022 hearing.

Conclusion

I 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 *Residential Tenancy Act*.

Dated: June 14, 2022

Residential Tenancy Branch