



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes AAT, OLC, FF

Introduction

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied for an order requiring the landlord to allow access to the rental unit for the tenant and her guests, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement and to recover the cost of the filing fee.

The tenant attended the hearing; however, the landlord did not attend.

As the landlord was not present, the matter of service of the tenant's application and hearing documents was considered.

The tenant said she did not serve the landlord with her Application for Dispute Resolution, evidence, and Notice of Hearing (application package) for multiple reasons and requested an extension of time for having the hearing.

Analysis and Conclusion

Section 59 (3) of the Act states that a person making an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 3.5 states that "at the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure".

In the case before me, as the tenant confirmed that she did not serve their application package, including the notice of this hearing, to the landlord as required by the Act, I could not proceed on the tenant's application in this hearing.

Both parties have a right to a fair hearing and the landlord would not be aware of the hearing or the issues in the tenant's application without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act and Rules.

I therefore **dismiss** the tenant's application, **with leave to reapply**.

I **dismiss** the tenant's request for recovery of the filing fee, **without leave to reapply**.

I make no findings on the merits of the matter. 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: September 23, 2022

Residential Tenancy Branch