



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNETC, FFT

Introduction

The Applicants seek the following relief under the *Residential Tenancy Act* (the “Act”):

- an order for compensation pursuant to s. 51(2) equivalent to 12 times the monthly rent payable under the tenancy agreement; and
- return of their filing fee pursuant to s. 72(1).

J.B. and A.S. appeared as the Applicants. No one attended on behalf of the Respondents.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

At the outset of the hearing, I enquired with the Applicants whether they had served the Notice of Dispute Resolution. The Applicants acknowledged that they did not and believed that the Residential Tenancy Branch would do so.

Rule 3.1 of the Rules of Procedure requires applicants to serve each of the named respondents, among other documents, with the Notice of Dispute Resolution, which is provided to them by the Residential Tenancy Branch. Section 89 of the *Act* sets the methods by which documents are to be served in dispute resolution proceedings. The obligation of serving application materials rests squarely with the Applicants under the present circumstances.

I find that the Applicants failed to serve their application materials in accordance with s. 89 of the *Act*. Service of the Notice of Dispute Resolution is a basic element of ensuring

a procedurally fair process, namely that respondents know the claim being made against them. Without service of the application materials, I find it would be procedurally unfair to the Respondents to proceed with the application.

Accordingly, I dismiss the Applicants claim under s. 51(2) of the *Act* with leave to reapply. The Applicants are cautioned to advise themselves of the service requirement of the *Act* and review the Rules of Procedure. I find that the Applicants should bear the cost of their application, which they failed to serve. Their claim under s. 72(1) of the *Act* is dismissed without leave to reapply.

No findings of fact or law are made with respect to the substantive issues in dispute in the application. This dismissal does not extend any time limitation that may apply under the *Act*.

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: November 22, 2022

Residential Tenancy Branch