



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

The Landlord filed an Application for Dispute Resolution on April 5, 2022 seeking compensation for unpaid rent, damage within the rental unit, and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on December 6, 2022.

The Landlord attended the scheduled conference call hearing; the Tenant did not attend.

Preliminary Matter – Notice of Dispute Resolution Proceeding

The Landlord attended the hearing, and they were provided the opportunity to present oral testimony and make submissions during the hearing. The Tenant did not attend the telephone conference call hearing.

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with the Notice of Dispute Resolution Proceeding (the “Notice”) for this hearing. This means the Landlord must provide proof that they served the Notice document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing, the Landlord described sending the Notice to the Tenant via email, along with their evidence they intend to rely on for this hearing.

The decision granting substituted service in this manner, dated April 29, 2022, provides as follows:

I order the landlord to provide proof of service of the e-mail which may include a print-out of the sent item, a confirmation of delivery receipt, or other documentation to confirm the landlord has served the tenant in accordance with this order. If possible, the landlord should provide a read receipt confirming the e-mail was opened and viewed by the tenant.

Also:

The landlord may serve the tenant the Notice of Dispute Resolution Proceeding, with supporting documents and written evidence, along with a copy of this substituted service decision, to the tenant's e-mail address as set out above.

The Landlord did not provide evidence of their service via email. The Landlord in the hearing also did not provide a date by which they did so. There is no record in the evidence to show that the Landlord served the Tenant as required.

The *Act* sets a strict timeline for service of the Notice, set in s. 59(3). That is within 3 days of making that application. The Adjudicator also specified "three days after the date that the e-mail is sent by the landlord to the tenant."

Without any reference to the email method of service, I cannot conclude that the Landlord abided by the conditions granted by the order for substituted service. The Adjudicator specified the need for documentation thereof, but the Landlord did not produce that.

The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I dismiss the Landlord's Application for this reason. I grant the Landlord leave to reapply; however, they are not eligible for reimbursement of the Application filing fee.

Conclusion

I dismiss the Landlord's Application, with leave to reapply. The Landlord was not successful in this Application; therefore, I grant no reimbursement of the Application filing fee.

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: December 7, 2022

Residential Tenancy Branch