



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR

Introduction

This hearing was convened as a result of the Tenant's application under the *Residential Tenancy Act* (the "Act") to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 16, 2022 (the "10 Day Notice") pursuant to section 46.

The Tenant attended this hearing and gave affirmed testimony. The Landlord did not attend.

Preliminary Matter – Service of Dispute Resolution Documents

Section 59(3) of the Act states:

Starting proceedings

59 [...]

(3) Except for an application referred to in subsection (6), 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.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure states:

3.5 Proof of service required at the dispute resolution hearing

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.

The Tenant acknowledged she did not serve the Landlord with the notice of dispute resolution proceeding package (the “NDRP Package”). The Tenant testified that she has paid off the balance stated on the 10 Day Notice. The Tenant confirmed the parties have another hearing in February 2022.

Based on the Tenant’s testimony, I find the Landlord was not served with the NDRP Package in accordance with the Act, and would not have known to attend this hearing. Therefore, I dismiss the Tenant’s application with leave to re-apply.

Conclusion

The Tenant’s application is dismissed with leave to re-apply. Leave to re-apply does not extend 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: December 20, 2022

Residential Tenancy Branch