



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RR, RP, PSF, LRE, OLC

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the tenant's application for dispute resolution (application) seeking remedy under the Manufactured Home Park Tenancy Act (Act) for:

- compensation for a monetary loss or other money owed;
- a reduction in monthly rent;
- an order requiring the landlord to make repairs to the site or property;
- an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act;
- an order suspending or setting conditions on the landlord's right to enter the site; and an order requiring the landlord to comply with the Act, regulations, or tenancy agreement.

The tenant and the landlord's agent/son (landlord) attended the hearing, were affirmed, and were given hearing instructions. This included a caution that they were not to interrupt the other party when they were speaking and that I would most likely interrupt the parties during this hearing in order to make determinations following this hearing.

The parties were also informed that preliminary matters would be discussed. This was due to my initial review of the evidence.

When discussing service of the tenant's application to the landlord, the tenant testified that she served the landlord with her application and notice of hearing by email. When asked if the landlord had given authority to be served by email, the tenant submitted that she had received approval in a previous Decision. I asked the tenant to provide me the file number so I could confirm. Ultimately the tenant provided the file number, and the Decision in that application, which was the tenant's application seeking emergency

repairs, which I reviewed during the hearing. I note that there was an interim Decision of September 27, 2022, in which another arbitrator allowed the tenant to serve the landlord the hearing materials by email, for the reconvened hearing on October 11, 2022. I also note that the landlord's address for service was listed on the cover page of that Decision of October 12, 2022.

The landlord said they had never given approval to be served documents by email and that the tenant knew the landlord's address for service, as she had been given the address several times, including on the cover page of the previous Decision.

The hearing continued with a discussion of preliminary matters regarding the tenant's evidence. The parties were informed the hearing on the merits of the matter would not proceed, due to the evidence issues.

There were 417 separate evidence submission entries in the Residential Tenancy Branch (RTB) digital file on this application, only 26 of which were from the landlord. The tenant was repeatedly asked if her extensive amount of evidence, which included photographs and videos, was labelled and organized, and whether the tenant had confirmed with the landlord they were able to gain access to the digital evidence, as required by the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). Instead, the tenant answered that the evidence was attached in emails to the landlord.

During the hearing, the tenant continually interrupted the proceedings, despite repeated cautions to stop. The tenant continued to express frustration with the RTB and their lack of help for her situation and for tenants. The tenant said she would be reporting this hearing.

As well during the hearing, the tenant appeared to be confused as to what issues were listed on her application. For instance, the tenant was unaware that she had asked for an order for repairs or a monetary claim. The tenant said that her application was to deal with her quiet enjoyment.

In reviewing the landlord's evidence, the landlord provided a written submission. In one statement, the landlord wrote that the tenant has sent her evidence in various separate emails and that it had gotten to the point where they had seen the same video sent a number of times. Further, the first email was for a hearing on February 28, 2023 and the next email with attachments were missing pages and also for the February hearing.

The landlord also wrote the following:

Next, she sent us a letter for repairs. No clear indication what hearing this is for and when I opened up the attachments, it was almost impossible for us to read or make sense of what she is trying to say. She even sent the pages in the incorrect order. We know she has access to a computer because she has sent us typed up attachments before.

[Reproduced as written]

The landlord asserted they did not understand the tenant's claim or their evidence, as it came in so many different emails with illegible letters, which appeared to be for other dispute resolution applications.

The written and oral evidence indicates that the parties were in dispute resolution in September and October 2022, on January 9, 2023, and have another dispute resolution hearing in February 2023. The February hearing relates to the One Month Notice to End Tenancy for Cause (Notice) served to the tenant.

Analysis and Conclusion

Section 52(3) of the Act requires that 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.

Section 82(1) of the Act states that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 6, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (f) by any other means of service provided for in the regulations.

In the case before me, I find that the tenant failed to provide sufficient evidence that she served her application to the landlord as required by the Act, as she confirmed sending the documents by email. The landlord denied, and there was no evidence presented, that the landlord provided their email as a method of service of documents.

Further, even though I indicated at the hearing that the hearing would be adjourned, upon further reflection and consideration of the evidence after the hearing, I now find that the tenant's application must be dismissed, with leave to reapply. This was due in part to the confusion of the tenant around what the tenant had applied for in her own application and the landlord's confusion as to what evidence pertained to this application or other applications.

Both parties have a right to a fair hearing and the landlord would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application **as required by the Act**.

I find the evidence indicates that the tenant has attempted to circumvent the service requirements of the Act by serving the landlord with her application in a manner not allowed under the Act.

As I am not satisfied the tenant has complied with the service requirements under the Act, I **dismiss** the tenant's application, **with leave to reapply**. Leave to reapply does not extend any applicable time limitation deadlines.

The tenant is reminded that for any future applications for dispute resolution, she must comply with the service requirements, and that email service is not allowed unless the landlord has provided their email address as an address for service of documents. The tenant may also apply separately to the RTB for an order for substituted service.

The landlord confirmed their mailing address at this hearing, which is the same address listed on the interim Decision from which the tenant read at the hearing.

For any future dispute resolution applications, both parties are reminded to comply with the Rules of Procedure for digital evidence submission, including the following:

Rule 3.10.1 requires as follows:

A party submitting digital evidence must:

- include with the digital evidence:
 - a description of the evidence;
 - identification of photographs, such as a logical number system and description;
 - a description of the contents of each digital file;
 - **a time code for the key point in each audio or video recording;** and
 - **a statement as to the significance of each digital file.**

Rule 3.10.5, which requires the party submitting digital evidence to the other, **must confirm that the other party has playback equipment or is otherwise able to gain access to the evidence.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: January 12, 2023

Residential Tenancy Branch