



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, RR, RP, PSF, FFT

Introduction

This hearing convened as a result of a Tenants' Application for Dispute Resolution, filed on August 5, 2022, wherein the Tenants requested the following relief:

- an order canceling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on August 4, 2022 (the "Notice");
- a Monetary Order for
 - damage or loss;
 - authority to deduct the cost of repairs, services or facilities from the rent; and,
 - recovery of the filing fee;
- an Order that the Landlord
 - make repairs to the rental unit; and,
 - provide services or facilities required by law.

Only the Tenant, B.S., called into the hearing. He gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord did not call into this hearing, although I left the teleconference hearing connection open until 11:15 a.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that B.S. and I were the only ones who had called into this teleconference.

As the Landlord did not call in, I considered service of the Tenants' Application for Dispute Resolution, Notice of Hearing and evidence in support of the application ("Hearing Package").

Although there was a copy of a registered mail receipt in evidence, the date on the receipt was not readable, nor was the address of the recipient filled out. B.S. was not able to provide any testimony as to this registered mail package nor any further testimony with respect to service of the Tenants' Application package on the Landlord.

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure* and the Principles of Natural Justice. *Rule 3.1* sets out the Applicant's responsibilities. As this is a Tenants' Application, they were obligated to comply with *Rule 3.1*.

3.1 Documents that must be served

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

The *Rules* relating to the exchange of documents prior to the hearing is a codification of one of the principles of natural justice which provides that that a party to a dispute has the right to know the nature of the claim against them and to receive and meaningfully

respond to any and all evidence submitted by the other party. In this case I find the Tenants have provided insufficient proof of service on the Landlord such that I am not satisfied the Landlord was aware of the hearing date.

The Tenant confirmed the tenancy ended on June 6, 2022. As such, the following relief is no longer relevant and is dismissed without leave to reapply:

- an order canceling the “Notice”;
- an Order that the Landlord
 - make repairs to the rental unit; and,
 - provide services or facilities required by law.

The Tenants’ claim for a retroactive rent reduction and monetary compensation from the Landlord is dismissed with leave to reapply.

As the Tenants’ have not been successful in their claim, their request to recover the filing fee is dismissed without leave to reapply.

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: January 04, 2023

Residential Tenancy Branch