



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR RP LRE RR FFT

Introduction and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated August 3, 2022 (10 Day Notice), for a rent reduction, for regular repairs to the unit, site or property, for an order to suspend or set conditions on the landlord's right to enter the rental unit or site, and to recover the cost of the filing fee.

The tenant attended the teleconference hearing. The tenant testified that they vacated the rental unit on December 4, 2022 and then later changed their testimony that they were staying in a motel and planned to return to the rental unit as they still had the rental unit key. The landlords did not attend the hearing. As the landlords did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated August 22, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) were considered. The tenant testified that they served the landlords by registered mail with the Hearing Package. As a result, and at 9:45AM the tenant was asked to provide the registered mail tracking number. The tenant responded that they did not have the tracking number. Given the above, the tenant was advised that they would be given five minutes to locate the tracking number at which time the tenant disconnected from the teleconference hearing. The tenant never called back into the hearing even though I extended the waiting time in the interests of fairness until 9:54AM.

Given the above, I find this matter must be dismissed with leave to reapply as the tenant failed to prove service.

Both parties have the right to a fair hearing. The landlord would not be aware of the hearing without having received the Notice of a Dispute Resolution Proceeding and application. I find by disconnecting from the hearing and failing to call back into the hearing and without provided a registered mail tracking number, I find the tenant has failed to prove service on the landlord. Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 3.5 states that 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 the Rules of Procedure.

Based on the above, I **dismiss** the tenant's application **with leave to reapply** as I am not satisfied that the landlord has been sufficiently served with the Notice of Hearing and application in a manner provided for under the *Act*. I note this decision does not extend any applicable time limits under the *Act*.

I do not grant the filing fee as a result of the service issue.

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the *Act*.

The filing fee is not granted as noted above.

This decision will be emailed to the tenant and sent by regular mail to the landlord, as the tenant did not have an email address for the landlord.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 16, 2023

Residential Tenancy Branch