



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **CNC, MNDCT, OLC, FFT**

Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for:

- An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55;
- A monetary order for damages or compensation pursuant section 67;
- An order for the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62;
- Authorization to recover the filing fee from the other party pursuant to section 72.

The tenant attended at the date and time set for the hearing of this matter. The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:40 P.M. in order to enable the landlord to call into this teleconference hearing scheduled for 1:30 P.M. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the tenant and I were the only ones who had called into this teleconference.

As only the tenant attended the hearing, I asked the tenant to confirm that she had served the landlord with the Notice of Dispute Resolution Proceeding for this hearing. The tenant stated that she does not have any of her paperwork or evidence before her for this hearing and that she does not recall when she served the landlord with a copy of the Notice of Dispute Resolution Proceedings package. The tenant testified that she thinks it may have been given to the landlord on November 1st or sometime around then, since she vacated the rental unit on October 31, 2022.

Analysis

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 principles of natural justice and procedural fairness require that the landlord has been put on sufficient notice of the claim against him and that he has had adequate time and opportunity to respond to the application. Based on the tenant's lack of evidence regarding service, I am not satisfied the landlord was properly served with the Notice of Dispute Resolution Proceedings package within 3 days as required under Rule 3.1 of the Residential Tenancy Branch Rules of Procedure. As such, I dismiss with leave to reapply, the tenant's application seeking compensation for monetary loss.

As this tenancy has already ended, the tenant's application seeking to cancel the landlord's notice to end tenancy and for an order that the landlord comply with the Act are both dismissed without leave to reapply. The filing fee will not be recovered.

Conclusion

The tenant's application seeking a monetary order is dismissed with leave to reapply.

The remainder of the tenant's application 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: February 24, 2023

Residential Tenancy Branch