



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damages to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

The Tenant states that the Landlord did not provide any documentation for this hearing and the Tenant was only informed about this hearing date by the Residential Tenancy Branch (the “RTB”). The Landlord states that the Tenants were served with the application, notice of hearing and evidence (the “Hearing Package”) by posting the Hearing Package on the Tenant’s residential door. The Landlord cannot recall the date of this service. The Landlord did not provide a proof of service for the Hearing Package. The Tenant states that no Hearing Package was received on their door.

Section 89(1) of the Act provides that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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.

Given the lack of supporting evidence of the Hearing Package and given the Tenant's evidence of not having received the Hearing Package, I find on a balance of probabilities that the Landlord has not substantiated that service was accomplished as required under the Act. I dismiss the application for dispute resolution with leave to reapply. Leave to reapply is not an extension of any limitation period.

This decision is made on authority delegated to me by the Director of the RTB under Section 9.1(1) of the Act.

Dated: February 02, 2023

Residential Tenancy Branch