



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding INFINITY CUSTOM HOMES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act* (the "Act") for an early end of tenancy pursuant to section 56 of the *Act* and to recover the cost of filing the application from the Tenants. The matter was set for a conference call.

An Agent of the Landlord attended the hearing and was affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documents was considered. Section 59 of the Act states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The Landlord testified that the Application for Dispute Resolution and Notice of Hearing document had been posted to the front door of the rental unit on March 2, 2023. A proof of service form, signed by another agent of the Landlord, was provided as evidence of service.

I have reviewed the Landlord's proof of service document and noted that this document shows one agent of this Landlord acted as the witness to the proof of service for another agent of this same Landlord. Having two agents of the same landlord, namely persons who are empowered to act in the interests of the Landlord, act as a witness to the benefit of the Landlord introduces an apprehension of bias and does not provide sufficient objectivity to show the service of that document. This leads me to determine, that I can neither rely solely on the document itself nor the testimony from the Landlord's Agent to prove this service.

Consequently, I am not satisfied that the Tenants had been duly served the Application for Dispute Resolution, and the Notice of Hearing for these proceedings.

Therefore, I dismiss the Landlord's application with leave to reapply. This decision does not extend any legislated timelines pursuant to the Act.

Conclusion

I dismiss the Landlord's application with 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: March 20, 2023

Residential Tenancy Branch