



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPL

Introduction

The Landlord filed an Application for Dispute Resolution on August 11, 2021, seeking an order of possession of the rental unit in line with the Two Month Notice to End Tenancy for Landlord's Use of Property. The matter proceeded by way of a hearing pursuant to s. 74(2) on March 3, 2023. In the conference call hearing I explained the process and provided the attending party – the Landlord -- the opportunity to ask questions.

Preliminary Issue – service of the Notice of Dispute Resolution Proceeding

The Landlord confirmed they did not provide the Notice of Dispute Resolution Proceeding to the Tenant upon receiving that document from the Residential Tenancy Branch on November 7, 2022.

The *Act* s. 59 contains the provisions for starting proceedings in a dispute resolution. Subsection (3) states: “. . .a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.”

The *Act* s. 89 gives the rules for service of the application for dispute resolution. This is by leaving a copy with the person or their agent or sending a copy via registered mail.

Additionally, the Rules of Procedure that are crafted to ensure a fair process; these specify the documents to be served by the applicant (here, the Landlord) to the respondent (here, the Tenant). These are: the Notice of Dispute Resolution Proceeding

provided when applying; the Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

The Landlord did not provide a copy of the Notice of Dispute Resolution Proceeding – that document that is generated when a person applies for dispute resolution – to the Tenant. The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I dismiss the Landlord's Application for Dispute Resolution for this reason; however, the Landlord has leave to reapply on this issue, and any others that they feel apply to the current situation in this tenancy.

Conclusion

I dismiss the Landlord's application for an order of possession, with leave to reapply. This decision does not impact any deadlines as set forth in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: March 3, 2023

Residential Tenancy Branch