



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL-S, MNDL-S, MNDCL-S, FFL

Introduction

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (the “Act”) for the following orders:

1. a Monetary Order for unpaid rent, pursuant to section 67;
2. A Monetary Order for damage to the rental unit or common areas pursuant to sections 32 and 67
3. a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

PS, the landlord, appeared at the hearing.

Adjournment Request

At the outset of the hearing, the landlord requested an adjournment of the hearing so they could make an application for substituted service. The landlord testified that they have been unable to serve the tenant. The landlord advised that they would not be withdrawing their application because they will be unable to reapply given that they are beyond the limitation period to do so.

Rule 7.9 of the Residential Tenancy Branch Rules of Procedure discusses the criteria for granting an adjournment and states the following:

Without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:

- the oral or written submissions of the parties;

- the likelihood of the adjournment resulting in a resolution;
- the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;
- whether the adjournment is required to provide a fair opportunity for a party to be heard; and,
- the possible prejudice to each party.

According to the landlord's documentary evidence, the tenancy in question ended on September 30, 2020. On September 1, 2022, the landlord filed an Application for Dispute Resolution.

I have considered the oral and written evidence of the landlord and I find that there is nothing in the landlord's evidence to support that since the tenancy ended over two and a half years ago, they have made any efforts to locate or serve the tenant. Furthermore, as the landlord was advised during the hearing, there was nothing preventing them from making an application for substituted service prior to the hearing.

Based on the landlord's statements at the hearing, and the lack of documentary evidence to support that any effort has been made to locate and serve the tenant, I find it more likely than not that the landlord's request for an adjournment is the result of their own actions having neglected this application for almost two years prior to filing for dispute resolution and approximately eight months after filing.

Furthermore, I find that the landlord has provided no assurance that an adjournment will result in their ability to locate and serve the tenant in a timely manner and thus I am not satisfied that there is any likelihood of the adjournment resulting in a resolution.

Ultimately, while I have considered the landlord's request for an adjournment, I find the landlord has not satisfied me that they are entitled to an adjournment for the purpose of making an application for a substituted service order.

The request for an adjournment is denied. In accordance with Rule of Procedure 7.11, the hearing proceeded as scheduled.

Service

Rule 3.5 of the Rules of Procedure requires that an applicant 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 in accordance with the Act and the Rules of Procedure.

In this case, the landlord concedes that the tenant has not been served with the required documents. Thus, I find that the tenant was not served in accordance with the Act and Rules of Procedure. As a result, the landlord's application is dismissed with leave to reapply.

The landlord is not entitled to recover the filing fee paid for this application.

Conclusion

The landlord's application is dismissed in its entirety with leave to reapply. I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

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: May 31, 2023

Residential Tenancy Branch