



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

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

Introduction

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

- A monetary order for unpaid rent and authorization to withhold a security deposit pursuant to sections 67 and 38;
- An order to be compensated for a monetary loss or other money owed and authorization to withhold a security deposit pursuant to sections 67 and 38; and
- Authorization to recover the filing fee from the other party pursuant to section 72.

Neither of the tenants attended the hearing although the teleconference connection was left open throughout. The landlord attended the hearing accompanied by her son/interpreter, WL.

Preliminary Issue – service of Notice of Dispute Resolution Proceedings

The landlord’s son testified that they think they may have served the tenants with the Notice of Dispute Resolution Proceedings package via regular mail, however the landlord cannot recall when it was done. The landlord did not provide a proof of service document as required under Rule 3.5 of the Residential Tenancy Branch Rules of Procedure.

During the hearing, I advised the landlord to review the email sent to her when she received the Notice of Dispute Resolution Proceedings from the Residential Tenancy Branch. Specifically, I advised the landlord to review the following excerpt:

Serve Your Notice of Dispute Resolution Proceeding Package to the Respondent(s)

You **must** serve the Notice of Dispute Resolution Proceeding package in one of the following ways and then provide your associated proof of service to the Residential Tenancy Branch via the Dispute Access site using your dispute access code. Or you may submit these documents at the Residential Tenancy Branch or at any Service BC Centre.

The principles of natural justice and procedural fairness require that each of the tenant/respondents have been put on sufficient notice of the claim against them and that they have had adequate time and opportunity to respond to the application. Based on the landlord's lack of evidence regarding service, I am not satisfied that each respondent/tenant was properly served with the documents within 3 days, as set out in Rule 3.1 of the Residential Tenancy Branch Rules of Procedure. As such, I dismiss the landlord's application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*.

The request to recover the filing fee is dismissed without leave to reapply.

Conclusion

The application is dismissed 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: May 01, 2023

Residential Tenancy Branch