



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNSDS-DR

Introduction

The Tenant filed an Application for Dispute Resolution (the “Application”) on January 9, 2023 seeking a return of their security deposit.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on May 26, 2023. This was set out in the Interim Decision of the Adjudicator dated March 17, 2023. This generated a Notice of Hearing (participatory) sent to the Applicant Tenant.

The Interim Decision on page 4 notified the Tenant that they must serve the Notice of Reconvened Hearing to the Landlord within 3 days of receiving that interim decision. The Residential Tenancy Branch sent this Interim Decision to the Tenant on March 21, 2023 as shown in the record.

Additionally, Notice of Dispute Resolution Proceeding was sent to the Tenant on March 21, 2023, with instructions on how to serve the Landlord. This message via email stated: “You must serve the Notice of Dispute Resolution Proceeding package by Mar 24 2023.

In the hearing, the Tenant presented that they sent registered mail with the initial Application information – from January -- to the Landlord. The Tenant provided a receipt and tracking number showing they did this on January 12.

The Tenant stated they did not forward the March 21, 2023 package from the Residential Tenancy Branch to the Landlord. In the hearing, the Tenant stated they “thought the Landlord would have caught wind of this somehow.”

The *Residential Tenancy Branch Rules of Procedures*, Rule 3, provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and

consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

The applicant must, **within three days** of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding . . .
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

One form that is provided to the Tenant in this process was the *Applicant Instructions for Dispute Resolution*. This form states: “Serve your Notice of Dispute Resolution Proceeding Package(s) to the respondent(s) before the service deadline”. This form was sent to the Tenant on March 21, 2023.

Additionally, the *Act* s. 59(3) sets out that “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. . .”

I conclude the Tenant did not serve the Notice of Dispute Resolution Proceeding to notify the Landlord of the May 26 hearing. Without notification to the Landlord, this prejudiced the Landlord as the respondent in this hearing.

Conclusion

Because the Tenant did not serve Notice of this hearing to the Landlord as required, I dismiss the Tenant’s Application in its entirety; however, the Tenant has leave to reapply.

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: May 29, 2023

Residential Tenancy Branch