



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL, MNDL, FFL

Introduction

The Landlord finalized their Application for Dispute Resolution (the “Application”) on November 25, 2022 seeking compensation for unpaid rent and damage in the rental unit, and to recover the filing fee for their Application.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on August 17, 2023. In the conference call hearing, I explained the process and provided the attending party, the Landlord, the opportunity to ask questions on the hearing procedure.

Preliminary Matter – Landlord’s service of Notice of Dispute Resolution Proceeding

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with the Notice of Dispute Resolution Proceeding for this hearing. This means the Landlord must provide proof that they served that document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

The Landlord presented that they were not the Landlord that filed this Application in November 2022. This Landlord entered as the agency for this owner in December 2022. The Landlord provided that the tenancy ended on July 30, 2022 according to their records. The Landlord did not have a forwarding address for this Tenant in place from the previous Landlord.

The Landlord who applied in this matter provided documents that they sent the Application in place to the Tenant via registered mail. The record of tracking for the item they sent on December 2 was refused by the recipient/addressee and returned to the Landlord the following day on December 3. The Landlord who attended the hearing could not speak to the Tenant’s address used for the purpose of service here.

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 Notice of Dispute Resolution Proceeding. 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.

I find it is unclear whether the Landlord attempted to provide a copy of the Notice of Dispute Resolution Proceeding to the Tenant, with no source of an address in the record. I am not satisfied the Landlord used a verifiable address in order to serve registered mail. 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 this reason; however, the Landlord has leave to reapply on this issue. I dismiss the filing fee recompense without leave to reapply.

Conclusion

I dismiss the Landlord's application for compensation, with leave to reapply. This decision does not impact any deadlines as set forth in the *Act*. I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 28, 2023

Residential Tenancy Branch