



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNDCT, MNSD, RPP, FFT

Introduction

The Tenant filed an Application for Dispute Resolution on November 17, 2022, seeking compensation from the Landlord for monetary loss, a return of the security deposit, a return of their personal property, and reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) on August 15, 2023. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

Preliminary Issue – service of the Notice of Dispute Resolution

The Tenant stated the Landlord would not answer the door when they attempted to serve the Notice of Dispute Resolution Proceeding for this hearing in person to the Landlord. The Tenant then left the document in the Landlord's mailbox.

After this, the Tenant attempted to call the Landlord; however, the Landlord would not answer. The Tenant also left a copy of the Notice of Dispute Resolution Proceeding with the new tenants that reside in the Tenant's former rental unit, *i.e.*, the subject rental unit of this hearing.

The Tenant also stated they provided the Notice of Dispute Resolution Proceeding to the Landlord with registered mail a week or two after receiving the document from the Residential Tenancy Branch, "within the first 2 weeks" as they stated in the hearing. The Tenant stated they provided a receipt and record of the registered mail for the record; however, this is not in the Tenant's prepared evidence for this hearing.

The record shows the Residential Tenancy Branch sent the document to the Tenant via email, on November 18, 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 for service of the application for dispute resolution, *i.e.*, the Notice of Dispute Resolution Proceeding. This is by leaving a copy with the person or an agent, or via registered mail, or via email to a verified email for service address.

Additionally, the *Residential Tenancy Branch Rules of Procedure* (crafted to ensure a fair process) specify the documents to be served by the applicant (here, the Tenant) to the respondent (here, the Landlord). 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 an applicant.

Here, the Tenant stated they provided the Notice of Dispute Resolution Proceeding to the Landlord by leaving it in the Landlord's mailbox. I am not certain this was the Landlord's postal address even though the Tenant provided the address on their application to the Residential Tenancy Branch. Also, though the Tenant stated they used registered mail for this purpose, they did not provide a record of the registered mail to verify that (the only record of registered mail in the Tenant's evidence pre-dates their application to the Residential Tenancy Branch).

Also, the Tenant recalled they sent the Notice of Dispute Resolution Proceeding to the Landlord within the first couple of weeks after receiving it from the Residential Tenancy Branch; however, s. 59(3) is precise on the timeline of three days' time limit for one party to provide the Notice of Dispute Resolution Proceeding to the other.

I find the Tenant 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 Landlord. The Tenant must be able to show they served the Landlord correctly, especially when the Landlord did not attend the hearing. The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. For the important reason of service to the Landlord, I dismiss the Tenant's Application for Dispute Resolution. I grant the Tenant leave to reapply on the key aspects of their Application; however, I grant no reimbursement of the Application filing fee.

Conclusion

I dismiss the Tenant's Application, with leave to reapply. This decision does not impact any deadlines as set forth in the *Act*. I dismiss the Tenant's claim for reimbursement of the filing fee, without leave to reapply.

I make this decision on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 16, 2023

Residential Tenancy Branch