



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNETC, RPP, FFT

Introduction and Preliminary Matters

On May 1, 2023, the Tenant applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 51 of the *Residential Tenancy Act* (the “Act”), seeking the return of personal property pursuant to Section 65 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant and all three Landlords attended the hearing. Landlord J.D. advised of the correct names of the Landlords, and their names have been amended in the Style of Cause on the first page of this Decision to reflect this correction.

At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that he served one Notice of Hearing package to all three Landlords, contrary to Rule 3.1 of the Rules of Procedure (the “Rules”). This was served by Xpresspost on May 4, 2023. J.D. confirmed that the Landlords only received one mail package, with three Notice of Hearing packages contained within that one envelope. More significantly, they testified that they only received two pages of the Notice of Dispute Resolution Proceeding, so they subsequently texted the Tenant in mid-May 2023 because they did not know what this Application pertained to. They confirmed that they received text message screen shots from the Tenant of the other missing pages shortly thereafter, with the Tenant stating, “Hi so this should explain everything. I’m pretty sure u [sic] guys know what’s going on.” It is the Landlord’s position that it would be unfair to proceed due to these errors in service.

The Tenant acknowledged that he inadvertently only served two pages of the four-page Notice of Dispute Resolution Proceeding package, and that he texted screenshots of these missing pages to them shortly after being informed of this by the Landlords.

Based on the consistent and undisputed testimony before me, I am satisfied that each Landlord was not served a separate Notice of Hearing package in accordance with Rule 3.1 of the Rules. Furthermore, and more importantly, only a portion of this required package was served to the Landlords. While the Tenant attempted to rectify this matter by text message screenshots, I do not find that this is an acceptable method of service. Moreover, it is entirely possible that vital information on these pages were missed in these screenshots. Finally, given that there was a delay in the Landlords receiving what may or may not have been the entire Notice of Dispute Resolution Proceeding documents, I find that this could have been prejudicial to the Landlords as they may not have been provided with the fulsome documents. Moreover, they were afforded less time to understand and possibly respond to the Tenant's claims. As such, I am not satisfied of service, and consequently, the Tenant's Application is dismissed with leave to reapply.

As the Tenant was not successful in this Application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

Based on the above, the Tenant's 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: August 22, 2023

Residential Tenancy Branch