



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing was scheduled to convene at 1:30 p.m. on November 30, 2023 concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlord was represented at the hearing by Legal Counsel and by an agent who gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord has provided a Canada Post tracking document showing that the tenant was served with the Notice of Dispute Resolution Proceeding and all other required documents (the Hearing Package), as well as all of the landlord's evidence, on April 12, 2023. The documents were sent by Regular Parcel delivery with a tracking number. The landlord received an email from the Residential Tenancy Branch stating that the Hearing Package was to be served by April 8, 2023, but the landlord didn't see the email until April 7, 2023.

The *Residential Tenancy Act* specifies 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, or within a different period specified by the director. In this case, the landlord has not asked for a different period to be permitted. The landlord was provided with the Notice of Dispute Resolution Proceeding on April 5, 2023 with instructions from the Residential Tenancy Branch to serve the Hearing Package by April 5, 2023, which would be the 3 days required by the *Act*. I accept that the landlord didn't see the email until April 7, 2023 and I find that the landlord could have complied. However, the landlord didn't serve it until April 12, 2023 which is beyond the 3 days after the landlord

saw the email with those instructions. If the landlord had served it within 3 days of receiving the email, the documents ought to have been served by April 10, 2023.

I find that the tenant might be prejudiced by the landlord's failure to comply, and I dismiss the landlord's application with leave to reapply.

I have made no findings of fact or law with respect to the merits of this matter.

Conclusion

For the reasons set out above, the landlord's application is hereby 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: December 4, 2023

Residential Tenancy Branch