

DECISION

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for the return of all or a portion of their deposits under sections 38 and 67 of the Act
- authorization to recover the filing fee for this application from the Landlords under section 72 of the Act

This hearing also dealt with the Landlords' Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- authorization to retain all or a portion of the Tenant's deposits in partial satisfaction of the Monetary Order requested under section 38 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Preliminary Matters

Tenant's Application

The Tenant testified that they did not serve each Landlord a Notice of Dispute Resolution Proceeding Package (Proceeding Package).

Residential Tenancy Policy Guideline 12 states that the purpose of serving documents under the Legislation is to notify the parties named in the dispute of matters relating to the Legislation, the tenancy agreement, a dispute resolution proceeding, or a review. Another purpose of providing the documents is to allow the other party to prepare their response for the hearing and gather documents they may need to serve and submit as evidence in support of their position. All parties named on an application for dispute resolution must receive notice of the proceedings. Where more than one party is named on an application, each party must be served separately.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure states:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the Arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure

The Tenant did not serve each Landlord separately the Notice of Dispute Resolution Proceeding Package as required under Rule 3.5 of the Residential Tenancy Branch Rules of Procedure.

Landlords' Application

The Landlords testified that they emailed the Proceeding Package to the Tenant.

The Tenant testified that they did not provide the Landlord with a pre-agreed email address for service.

Section 43 of the Residential Tenancy Regulation states documents may be given to a person by emailing a copy to an email address provided as an address for service by that person.

I find the Landlords did not provide proof that the email address where they sent the Proceeding Package to the Tenant was a pre-agreed email address for the Tenant as required under section 43 of the Residential Tenancy Regulation.

Conclusion

The Tenant's application for authorization to recover the filing fee for their application from the Landlords under section 72 of the Act is dismissed, without leave to reapply.

The Tenant's remaining application is dismissed, with leave to reapply.

The Landlords' application for authorization to recover the filing fee for their application from the Tenant under section 72 of the Act is dismissed, without leave to reapply.

The Landlords' remaining 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 Act.

Dated: October 8, 2024

Residential Tenancy Branch