



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with two Applications for Dispute Resolution under the *Residential Tenancy Act* (Act).

The Tenant's application for:

- A monetary order of \$276.00 for the return of the cost of emergency repairs
- A monetary order of \$1,500.00 for monetary loss or money owed
- Return of the security deposit and pet damage deposit that the Landlord is retaining without cause
- The return of their personal property
- An order that the tenancy has ended due to a frustrated tenancy agreement
- Reimbursement of the filing fee

And the Landlords' application for:

- A monetary order of \$7000.00 for damage caused during the tenancy
- A monetary order of \$5000.00 for monetary loss or money owed
- To retain all or part of the Tenant's security deposit and pet damage deposit
- Reimbursement of the filing fee.

Those listed on the cover page of this decision attended the hearing and were affirmed.

The Interim Decision of September 20, 2024, should be read in conjunction with this decision. On September 20, 2024, I dismissed the Landlord's application with leave to reapply. I adjourned the hearing to proceed with the Tenant's Application for dispute resolution.

Preliminary Matters

The Landlord testified that they did not receive the Notice of Dispute Resolution Proceeding (Proceeding Package) and documentary evidence from the Tenant. The Landlord testified that on July 13, 2024, they received a forwarded email from the

Tenant, which included directions from the Residential Tenancy Branch (RTB) to the Tenant. The Landlord submitted this forwarded email in evidence as per the Correction Request they submitted to the RTB. The Landlord testified that they obtained access call in codes from the RTB.

At the hearing of September 19, 2024, and October 17, 2024, the Tenant testified that they submitted evidence to the RTB evidence submission portal, and they did not serve documentary evidence to the Landlord. At the hearing of October 17, 2024, the Tenant testified that on July 8, 2024, they served via registered mail to the Landlord the Proceeding Package. The Tenant stated that on July 13, 2024, they served via email to the Landlord the Proceeding Package.

Section 59(3) of the Act and RTB Rule of Procedure 3.1 both require that an applicant serve the respondent with the required documents, as noted above, within three days of receiving the Proceeding Package from the RTB. In this case, the Proceeding Package from the RTB is dated July 10, 2024, and the Tenant stated they served the Proceeding Package via registered mail on July 8, 2024. There is no evidence before me that the Tenant served the correct Proceeding Package and provided proper notification to the Landlord, as required by the Act.

I find the Tenant did not serve the required documents within the required timeframe, or at all. As such, the Landlord has not been provided proper notice of this Application and it would be unfair to proceed with the Tenant's Application.

I dismiss the Tenant's application with leave to reapply, due to the service issues described above.

I make no findings on the merits of the application. Leave to reapply is not an extension of any applicable limitation period.

Conclusion

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: October 17, 2024

Residential Tenancy Branch