



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, ERP, FF

Introduction

This matter proceeded by way of a conference call Hearing, pursuant to the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the Tenant to cancel a One Month Notice to End Tenancy for Cause, and a request for a rent reduction or monetary Order in relation to repairs or emergency repairs and recovery of the filing fee.

Only the Tenant appeared at the oral hearing.

Background and Evidence

The Tenant provided affirmed testimony that on October 14, 2011 at 11:00 AM he picked up the Notice of Hearing document from the Residential Tenancy office which is dated October 13, 2011. The Tenant testified that he hand delivered the Notice of Hearing document along with his Application for Dispute Resolution to one of the Landlords, PS, at her place of employment either on October 14 or 15, by leaving the envelope with the receptionist. The Tenant stated that he was not sure if the Landlord was at work on the day he dropped off the envelope with the receptionist. The Tenant confirmed that he did not see the Landlord in person nor hand the documents to the Landlord in person.

The Tenant also testified that he did not want the Landlord going into his rental unit while he was out of town in Palm Springs, so he did not provide them copies of his evidence until he returned. He stated that when he returned, he organized his evidence and documents and provided copies of all of them along with another copy of the Notice of Hearing and personally delivered it to the Landlord's residential address the evening of November 05, 2011, handing it to a woman the Tenant believes is the mother of the Landlord. The Hearing was held at 11:00 AM on November 07, 2011.

Analysis

I find that the Tenant has failed to properly serve the Landlord with the Notice of Hearing, evidence, and Application for Dispute Resolution.

Section 59(3) of the Act requires that the person making the application for dispute resolution must give a copy of the application to the other party within 3 days. Section 89 of the Act sets out that service by a tenant on a landlord must be by leaving a copy

with the person, leaving a copy with the agent of the landlord, or by sending a copy by registered mail to the landlord's address.

The Residential Tenancy Branch Rules of Procedure (the "Rules") section 3.1 states:

Together with a copy of the Application for Dispute Resolution, the applicant must serve each respondent with copies of all of the following:

- a) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- b) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- c) the details of any monetary claim being made, and
- d) any other evidence accepted by the Residential Tenancy Branch with the application or that is available to be served.

The Residential Tenancy Policy Guideline (the "Guideline") 12 section 2 provides details on how to serve documents on a respondent. Guideline 12 section 2 states that where a tenant is personally serving a landlord with a copy of the notice of hearing and application for dispute resolution the tenant must actually hand a copy of the document to the person being served, or they decline to take the document leave it near the landlord and explain the nature of the document being served. Alternately the tenant may serve the document by registered mail to the landlord. If neither method is possible, then the tenant may apply to the Residential Tenancy Branch for an order for an alternate service method.

Although this Application is dismissed, the Tenant indicated he has other monetary issues relating to repair costs and a damages claim to resolve with the Landlord. The Tenant may chose to file for these issues through another Application.

Conclusion

The Tenant 's Application is dismissed as he has failed to properly serve the Landlord with the Application for Dispute Resolution and Notice of Hearing within the required timeframes or by using the required methods.

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: November 07, 2011.

Residential Tenancy Branch