



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AKERS PROPERTY SOLUTIONS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on February 19, 2018 (the "Application"). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the "Act"). The Landlord also sought reimbursement for the filing fee.

S.R. appeared for the Landlord. Nobody appeared for the Tenants. S.R. said the Landlord was no longer seeking an order ending the tenancy early under section 56 of the *Act* or an Order of Possession as the Tenants had vacated the rental unit. S.R. said the Landlord was still seeking reimbursement for the filing fee.

The Landlord had submitted 17 pages of evidence. I addressed service of the hearing package and Landlord's evidence. I understood from S.R. that the Landlord had possibly applied through the Direct Request process for an Order of Possession in addition to the Application. S.R. did not know if the hearing package for this hearing was served on the Tenants. The Landlord had submitted two Proof of Service documents as evidence; however, these related to Notices of Direct Request Proceedings. S.R. did not know if the Proof of Service documents related to service of the Notice of Hearing for this hearing or related to the Direct Request process. S.R. said she did serve the Landlord's evidence on the Tenants.

The *Act* and Rules of Procedure (the "Rules") set out service requirements in relation to applications for dispute resolution.

Section 59(3) of the *Act* states "...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".

Rule 3.1 of the Rules states:

The applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and

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Rule 3.5 of the Rules states that “[a]t 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...as required by the Act and these Rules of Procedure”.

I note that the “Residential Tenancies Fact Sheet” that would have been sent to the Landlord upon filing the Application includes information about the above service requirements.

The purpose of the service requirements in the *Act* and Rules is to put respondents on notice of the hearing and to give them an opportunity to respond to the claims being made against them. Service of the hearing package on a respondent is essential to ensure principles of natural justice and procedural fairness are applied.

I was not satisfied based on the evidence of S.R. that the Tenants were served with the hearing package for this hearing as S.R. did not know if the Tenants had been served with the hearing package. I told S.R. during the hearing that the Application would be dismissed and that I would not be awarding reimbursement for the filing fee in the circumstances.

S.R. had indicated at the start of the hearing that the Landlord was seeking monetary compensation for unpaid rent. I advised S.R. I would not be considering this request as the Landlord had not applied for it. At the end of the hearing, I told S.R. to contact an Information Officer at the Residential Tenancy Branch for guidance on how to proceed.

Given the above, I dismiss the Application without leave to re-apply. The Landlord is advised to contact the Branch and speak with an Information Officer regarding how to proceed with any monetary claims.

I decline to award the Landlord reimbursement for the filing fee.

Conclusion

The Application is dismissed without leave to re-apply as the Tenants have vacated the rental unit.

I decline to award the Landlord reimbursement for the filing fee as I am not satisfied the Tenants were served with the hearing package in accordance with the *Act*.

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: May 15, 2018

Residential Tenancy Branch