



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes CNC, OLC

Introduction

This decision is in respect of the tenants' application for dispute resolution made on September 19, 2018 under the *Residential Tenancy Act* (the "Act"). The tenants sought the following remedies:

1. an order cancelling a One Month Notice to End Tenancy for Cause, pursuant to section 47(4) of the Act; and,
2. an order that the landlord comply with the Act, the *Residential Tenancy Regulation*, or the tenancy agreement, pursuant to section 62(3) of the Act.

A dispute resolution hearing was convened at 11:00 A.M. on November 2, 2018. The tenants and three health authority employees, who are assisting and working with the tenants, attended the hearing, were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The landlord did not attend.

Preliminary Issue: Lack of Evidence and Failure to Serve the Landlord

One of the health authority employees stated that they called the landlord on Wednesday (October 31, 2018) afternoon to provide them with the dispute resolution hearing phone-in codes. The parties further stated that the tenants never served the Notice of Dispute Resolution Hearing on the landlord, as is required by section 59(3) of the Act.

Section 59(3) of the Act states 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."

As an aside, I note that upon reviewing the tenants' application and Residential Tenancy Branch file, no documentary evidence appeared to have been submitted. Most importantly, there was no copy of the One Month Notice to End Tenancy which is the subject of the tenants' application. Without a copy of a notice to end a tenancy, an arbitrator is, in most cases, unable to make any finding of fact or law.

Having failed to comply with section 59(3) of the Act by not serving the landlord with a Notice of Dispute Resolution Proceeding, and any evidence that they intended to rely on during a hearing, I dismiss the tenants' application with leave to reapply.

Conclusion

The tenants' application for dispute resolution 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: November 2, 2018

Residential Tenancy Branch