



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, PSF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “*Act*”) to cancel a 10-Day Notice to End Tenancy for Unpaid Rent or Utilities (the “10-Day Notice”) issued on January 12, 2021, and for an order that the Landlord provide services or facilities required by the tenancy agreement or law. The matter was set for a conference call.

The Tenant attended the hearing and was affirmed to be truthful in their testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The Tenant was unable to clearly provide testimony regarding the service of the Application for Dispute Resolution and Notice of Hearing document to the Landlord.

Overall, I find that the Tenant was unprepared and unable to speak to the particulars of service of the Application for Dispute Resolution and Notice of Hearing document to the Landlord during this hearing.

In order to provide the Tenant with a fair and equal opportunity to present her claim, I allowed the Tenant time to formulate answers and prompted the Tenant to what they need to speak to prove service. The Tenant expressed frustration with the legal process and requested legal guidance and assistance from this Arbitrator.

The Residential Tenancy Branch Rules of procedure define the arbitrator’s role in a hearing as follows:

“Rule 6 – Pertaining to the hearing in general

6.1 Arbitrator’s role

The arbitrator will conduct the dispute resolution process in accordance with the Act, the Rules of Procedure and principles of fairness.”

I find that it would have been procedurally unfair of this Arbitrator to assist the Tenant with their claim during the hearing, as requested.

Based on the testimony provided during these proceedings, I find that the Landlord had not been duly served the notification of this hearing as required, pursuant to section 59 of the *Act*.

Therefore, I dismiss the Tenant’s application with leave to reapply. This decision does not extend any legislated timelines pursuant to the *Act*.

Conclusion

I dismiss the Application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limits under the legislation. I have not made any findings of fact or law with respect to the Application.

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: April 15, 2021

Residential Tenancy Branch