



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction, Preliminary Matters and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) to cancel a 1 Month Notice to End Tenancy for Cause dated February 4, 2021 (1 Month Notice). The filing fee was waived for this application.

The tenant and a support person for the tenant, DD (support) attended the teleconference hearing. The tenant was affirmed. The tenant was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The tenant was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the tenant was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The tenant did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the tenant confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them. As the tenant provided an email address for the landlord during the hearing, the decision will also be emailed to the landlord.

As the landlord did not attend the hearing, the tenant was asked how they served the Notice of Dispute Resolution Proceeding dated February 23, 2021 (Notice of Hearing) and application. The tenant stated that they sent an email to the landlord agent, KS (agent) on February 25, 2021 at 11:11 a.m. and that there were two attachments to the email; a witness statement and a copy of a Probation Order. The tenant did not state

that they included the Notice of Hearing document, which includes the application and the access codes for the hearing.

Both parties have the right to a fair hearing. The landlord would not be aware of the hearing without having received the Notice of Hearing and application. Therefore, I **dismiss** the tenant's application **with leave to reapply** as I am not satisfied that the landlord has been sufficiently served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the Act.

This decision will be emailed to both parties.

The filing fee was already waived.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 18, 2021

Residential Tenancy Branch