



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on March 3, 2022 seeking an order of possession, and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 17, 2022.

The Landlord attended the hearing; the Tenant did not attend.

Preliminary Matter

The Landlord stated they delivered notice of this hearing to the Tenant by attaching it to the door of the rental unit where the Tenant resides. This occurred on June 1, 2022 after the Tenant contacted the Residential Tenancy Branch about service to the Tenant. The Landlord received a reminder about evidence from the Branch on May 27, 2022, and they followed up on that call for the hearing approaching on June 16.

The record at the Residential Tenancy Branch shows the Landlord applied on March 3, 2022, and the Notice of Dispute Resolution was provided to them via email on March 10, 2022. This was to the email address the Landlord provided when they applied. In the hearing the Landlord stated they did not receive this email. After their Application, the only message they received from the Branch was on May 27, prompting them to call the Branch and clarify instructions for service to the Tenant.

I verified the Landlord's email address in the hearing. This is the same as what appears on their Application, and the same used for the Branch providing the Notice of Dispute

Resolution Proceeding to the Landlord on March 10, 2022, and the same for contacting them on May 27.

The *Residential Tenancy Branch Rules of Procedures*, Rule 3, provides the rules on serving the application and hearing information. This is to ensure the objective of a fair, efficient, and consistent process for resolving disputes. Rule 3.1 sets the timeline of initial service after an application:

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 . . .
- b) the Respondent Instructions for Dispute Resolution;
- c) the dispute resolution process fact sheet (RTB-114) . . . provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch . . .

One form that is provided to the parties in this process is the *Residential Tenancies Fact Sheet – The Dispute Resolution Process* (RTB-114). This form sets out this three-day timeline. The instruction to the Landlord on March 10, within the email, is: “You must serve separate Notice of Dispute Resolution Proceeding packages to [the Tenant] within three calendar days of this email, or no later than Mar 13, 2022.”

There is no record of the Landlord inquiring to the Residential Tenancy Branch about a hearing date, or other information. I find it not credible that the Landlord did not receive the initial email on March 10, 2022 as shown in the record at the Landlord’s verified email address. If not received, that would mean the communication on May 27 should have been similarly not received; however, the Landlord did receive that message.

I find the Landlord did not serve the Notice of Dispute Resolution Proceeding to the Tenant in line with the *Rules of Procedure* for this hearing. This ultimately prejudiced the Tenant as the Respondent in this hearing; furthermore, the Tenant did not attend the hearing. For this reason, I dismiss the Landlord’s Application, with leave to reapply.

Conclusion

I dismiss the Landlord’s Application, with leave to reapply. This means the tenancy will not end and there is no order of possession. The portion of the Application wherein the

Landlord claims reimbursement of the Application filing fee is dismissed *without* leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: June 17, 2022

Residential Tenancy Branch