



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes CNR

Introduction

This hearing convened to deal with the tenant's two applications for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant filed two applications seeking an order cancelling two 10 Day Notices to End Tenancy for Unpaid Rent or Utilities (Notice) issued by the landlord.

The tenant attended the hearing; however, no one representing the landlord attended the teleconference hearing.

As the landlord was not present or represented, the matter of service of the tenant's application and hearing documents was considered.

The tenant said he did not serve the landlord with either application for dispute resolution, evidence, and Notice of Hearing (application package). The tenant said that he was behind with the monthly rent, but that the landlord has been working with him as they have agreed upon a payment plan for the outstanding rent deficiency. The tenant submitted that he acknowledged the ongoing monthly rent issues, but is trying his best under his present circumstances and is appreciative that the landlord has been working with him. The tenant submitted as a result, he did not serve the landlord with his applications.

Analysis and Conclusion

Section 59 (3) of the Act states that a person making an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 3.5 states that “at 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 and all evidence as required by the Act and these Rules of Procedure”.

In the case before me, as the tenant confirmed that he did not serve his application packages, including the notices of the hearings, to the landlord as required by the Act, I could not proceed on the tenant’s applications in this hearing.

Both parties have a right to a fair hearing and the landlord would not be aware of the hearing or the issues in the tenant’s application without having been served the Notice of a Dispute Resolution Hearing and applications as required by the Act and Rules.

I therefore **dismiss** the tenant’s two applications, **with leave to reapply**.

I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: November 15, 2022

Residential Tenancy Branch