



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

All parties appeared for the hearing and provided affirmed testimony.

Preliminary Matters – Service

The Landlord stated that they sent the Notice of Dispute Resolution Proceeding and initial evidence package to the Tenant on February 13, 2023. Mail tracking information was provided during the hearing. This package was received by the Tenant, but the Tenant asserts that it did not contain any of the hearing documentation, or the Notice of Dispute Resolution Proceeding. The Landlord's agent stated that she prepared the registered mail package, but she did not have any witness with her, nor did she have any corroborating evidence showing what was contained in the package from February 13, 2023.

The Tenant stated that he had no idea what this hearing was about, and only knew of the hearing because of the automated hearing reminder emails. The Tenant stated he received the evidence packages from the Landlord, but nothing explaining what application it was pertaining to.

Although the parties each provided statements speaking to the merits of the application, I decline to decide on the merits of the application, since I find the Landlord has failed to sufficiently demonstrate that they served the Notice of Dispute Resolution Proceeding to

the Tenant. I find this would have caused prejudice to the Tenant, and his ability to understand and respond to the basis of this application.

With respect to proving service, the Landlord could have retained and provided a photo of the package contents, or provided a third party witness statement speaking to what was in the initial package. However, they did not do so, and I am not satisfied the Notice of Dispute Resolution Proceeding has been served to the Tenant or that it was contained within the evidence package they gave to the Tenant. Since the Notice of Dispute Resolution Proceeding has not been sufficiently served, I dismiss the Landlord's application, in full, 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 *Residential Tenancy Act*.

Dated: March 03, 2023

Residential Tenancy Branch