



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Radke Bros. Construction Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. On July 13, 2022, the landlord applied for:

- compensation for damage caused by the tenants, their pets, or guests to the unit or property, noting the landlord holds the security or pet deposit;
- compensation for monetary loss or other money owed, noting the landlord holds the security or pet deposit; and
- the filing fee.

The hearing was attended by the landlord but not the tenants. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord was not sure on what date he served the Notice of Dispute Resolution Proceeding (NDRP) by registered mail on the tenants, stating that it was sent within two weeks of June 30, 2022. The landlord testified that he had submitted the wrong mailing receipt as evidence, dated July 29, 2022, but that the mailing labels accompanying the receipt contained the correct tracking numbers for service. As the receipt and mailing labels noted the same tracking numbers, and the sent date of July 29, 2022 did not align with the landlord's testimony on when the NDRP was sent, I do not find the submitted documents to be proof of service of the NDRP on the tenants.

Rule 3.5 states:

3.5 Proof of service required at the dispute resolution hearing

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.

As the landlord has not provided proof of service of the NDRP, and the tenants did not appear, I find the landlord has not satisfied me they served the NDRP on the tenants as required by section 89 of the Act.

Therefore, as I am not confident that the tenants are aware of the proceeding, I dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application is dismissed 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: April 03, 2023

Residential Tenancy Branch