



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRL-S, MNDL-S, MNDCL-S

Introduction

The Landlord filed an Application for Dispute Resolution on February 22, 2023, seeking compensation from the Tenant. The matter proceeded by way of a hearing pursuant to s. 74(2) on April 13, 2023. In the conference call hearing I explained the process and provided the attending parties – the Landlord and the Tenant -- the opportunity to ask questions.

Preliminary Issue – service of the Notice of Dispute Resolution Proceeding

At the Application stage, the Landlord asked for an order for substituted service, based on the Tenant's location that was away from the rental unit. They applied to use Facebook messenger, which was the "[b]est form of communication over the last 5 years". An Arbitrator approved this method of service on March 16, 2023, noting that the Landlord had to then provide "proof of service of the message sent . . . to confirm the Landlord has served the Tenant in accordance with this Order."

In the hearing, the Tenant stated they were aware of the hearing date and time. The Tenant stated they were not able to provide evidence for this hearing, not knowing how they could do that. Additionally, the Tenant stated they were not able to view the evidence the Landlord provided for this hearing.

The *Residential Tenancy Branch Rules of Procedure* (which are crafted to ensure a fair process) specify the documents to be served by an Applicant (here, the Landlord) to a Respondent (here, the Tenant). These are: the Notice of Dispute Resolution Proceeding provided when applying; the Respondent Instructions for Dispute Resolution; a process fact sheet; and other evidence submitted by the applicant.

The Rules of Procedure also require an applicant to provide evidence to the Residential Tenancy Branch and a respondent party in line with administrative fairness.

The Landlord did not provide proof of their proper service of all required documents, containing all information about the hearing, including processes and information for the Tenant. As well, I am not satisfied the Landlord provided their evidence that was accessible by the Tenant; indeed, in the hearing the Tenant stated they could not access the evidence. This is required just as a basic measure of fairness.

The *Act* requires proper service in line with administrative fairness in which a party's legal rights and obligations are challenged. I dismiss the Landlord's Application for Dispute Resolution for this reason; however, the Landlord has leave to reapply on these issues, and any others that they feel apply to the current situation in this tenancy.

I strongly urge the Landlord to consult the Residential Tenancy Branch for guidance on issues with this tenancy that have been continuing for quite some time. The Landlord should also seek guidance on all aspects of applying to the Residential Tenancy Branch for relief.

Conclusion

I dismiss the Landlord's application for compensation, with leave to reapply. This decision does not impact any deadlines as set forth in the *Act*.

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: April 14, 2023

Residential Tenancy Branch