



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, LRE, OPR, OPL, OPC, MNR, FF

This hearing was scheduled to deal with cross applications. The tenants filed to cancel a Notice to End Tenancy for cause and for a Monetary Order for damage or loss under the Act, regulations or tenancy agreement. The landlord applied for an Order of Possession for unpaid rent, landlord's use of property, and cause. The landlord also requested a Monetary Order for unpaid rent and damage or loss under the Act, regulations or tenancy agreement.

Both parties appeared at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Preliminary and Procedural matters

At the commencement of the hearing I confirmed that the tenants have vacated the rental unit and the landlord has regained possession of the unit. Vacating the rental unit resolved several of the issues identified on applications and I determined that the only outstanding issues involved monetary claims.

Both parties raised issues with service of hearing documents upon them. The tenants stated they had not received the landlord's Application for Dispute Resolution or evidence package. Upon enquiry, the landlord stated that she could not recall when or how she served her Application for Dispute Resolution upon the tenants; however, she left her evidence package on the door of the rental unit on May 22, 2012. The tenants stated that they moved out of the rental unit May 20, 2012 and have not returned to the property since.

The landlord stated that the tenants' Application for Dispute Resolution indicates there is an additional sheet explaining the details of dispute but that such a sheet did not accompany the tenant's Application for Dispute Resolution. The landlord's statements were consistent with the file before me.

As the parties were informed at the hearing, an applicant bears the burden to prove their Application for Dispute Resolution, including sufficient particulars of the matter

under dispute, was served upon the other party in a manner permitted under section 89 of the Act. Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

Given the landlord's inability to provide details of service of her Application for Dispute Resolution upon the tenants I accepted that the tenants were not sufficiently served and I dismissed with the landlord's application with leave to reapply.

I also dismissed the tenants' Application for Dispute Resolution with leave since the tenants' did not satisfy me that they provided the sufficient details of dispute with the Application for Dispute Resolution.

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: May 29, 2012.

Residential Tenancy Branch