



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee. The landlord attended the hearing and gave affirmed testimony, however, the tenant did not appear.

The landlord testified that he served the application for dispute resolution and notice of hearing (the "hearing package") by way of posting on the tenant's door, on or about August 29, 2012. However, it is also understood that the tenant abandoned the unit sometime in July without providing a forwarding address.

Issue(s) to be Decided

Whether the tenant has been sufficiently served with the hearing package and, if so, whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which the landlord states began approximately 4 or 5 years ago. The landlord also claims that he posted a notice to end tenancy on the tenant's door on August 12, 2012. As there is no copy of such a notice in evidence, it is unclear whether this was a 10 day notice to end tenancy for unpaid rent or utilities, or a 1 month notice to end tenancy for cause. The landlord further claims that certain rent is unpaid, however, there is insufficient evidence of the amount presently overdue or the related period of time at issue. Further, as earlier stated, the landlord also testified that the tenant abandoned the unit in July and that her current whereabouts is unknown.

Despite all of the foregoing, the landlord appears to remain committed to pursuing his application for reasons which are not fully understood; in part, the landlord's intentions seem to involve Surrey City officials, removal of the electrical meter, and discontinuation

of the electrical supply to the unit as a result of the discovery of a marijuana grow operation in July 2012.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 89 of the Act addresses service of documents and speaks specifically to **Special rules for certain documents**, in part, as follows:

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71(1) [*director's orders: delivery and service of documents*].

Based on the testimony of the landlord, I find that the hearing package was not served on the tenant in accordance with the above statutory provisions. Further, in the absence of any documentary evidence beyond the application itself and a copy of a letter issued in July 2012 by Surrey City officials ("Electrical and Fire Safety Team Inspection"), I find there is insufficient evidence before me to support any aspect of the landlord's application. In the result, the application must therefore be dismissed with leave to reapply.

Given the tenant's apparent abandonment of the unit, it may be that the landlord no longer requires an order of possession. In any event, the landlord has the option of

contacting an Information Officer at the Branch in order to discuss any future application he may wish to make.

Conclusion

The landlord's application is hereby 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: November 14, 2012.

Residential Tenancy Branch