



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, ERP, RP, RPP, OLC, MNDC

There are applications filed by both parties. The Landlord has made an application for an order of possession and a monetary order for unpaid rent or utilities, to keep all or part of the pet damage and security deposits and recovery of the filing fee. The Tenant has made an application for an order for the Landlord to comply with the Act by making emergency repairs for health or safety concerns, to make repairs, to return the Tenant's personal property and a monetary claim for money owed or compensation.

Both parties attended the hearing by conference call and gave testimony. The Landlord has confirmed receiving the Tenant's application by Canada Post Registered Mail, but has stated that the Tenant's evidence was received on February 26, 2013 and has not had an opportunity to review the material. The Tenant has confirmed submitting the evidence late as well as the same package that was received late by the Branch on February 21, 2013. The Tenant states that she has not received the Landlord's notice of hearing package. The Landlord states that it was sent by courier on February 2, 2013 and has submitted an invoice that states that it was received by the Tenant by leaving it at the front door.

I find based upon the evidence provided by both parties that the Tenants have erred by submitting evidence late contrary to the rules of procedure for service of evidence. The Landlord would be highly prejudiced if I were to allow the late evidence for the Tenant's Application. The Landlord has also erred by having the notice of hearing package delivered without proper proof of service by having a courier leave the package at the front door which is disputed having been received by the Tenant.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed that as the Tenant was in the process of vacating the rental unit by 1:00 pm on February 28, 2013 (Hearing Date), that the Landlord could be granted an order of possession for this date and time. Both parties agreed to meet at the rental unit at 1:00 pm when the Tenant would surrender the keys and possession of the rental unit to the Landlord.

The above particulars comprise full and final settlement of all aspects of the dispute arising from this application for both parties concerning possession of the rental unit.

As for the monetary claims made by both parties, I find that both parties have failed to properly serve the other in relation to the application filed by the Landlord and the evidence relied upon by the Tenant. As such, the monetary claims made by both parties are 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: February 28, 2013

Residential Tenancy Branch

