



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPC, OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications. The tenant had filed to request cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent. The landlords applied for an Order of Possession for unpaid rent and cause; a Monetary Order for unpaid rent and utilities; and, authorization to retain the security deposit. Both parties appeared at the hearing and were provided an opportunity to be heard and to respond to the submissions of the other party.

Preliminary and Procedural Matters

The landlords confirmed receipt of the tenant's Application for Dispute Resolution; however, the tenant claimed he had not received the landlords' Application or evidence.

The landlords submitted conflicting testimony regarding service of the landlords' Application. Initially, the landlords testified their Application for Dispute Resolution was served upon the tenant in person by the upper tenant. Later, the landlords testified that their Application was received by the tenant via registered mail. The tenant acknowledged receiving one registered mail package from the landlords but thought it was other unrelated correspondence the landlords had sent to him.

With respect to the landlords' evidence I heard that it was sent to the tenant by registered mail which was accepted by the upstairs tenant. According to the landlords the upstairs tenant left the evidence packages in the side mailbox. The tenant claimed he did not receive the evidence.

The tenant submitted that Canada Post will not deliver to his entrance as it is not the main entrance for the house and that he has difficulty picking up registered mail because his identification does not reflect the rental unit address. The tenant claimed that he had requested the landlords serve documents upon him by posting them on his door or that the tenant pick them up from the landlord but that the landlord refused the

request. The landlord submitted that the landlord could not, under the Act, serve the landlord's Application for Dispute Resolution to the tenant by posting on the door.

The tenant stated that he would prefer to be served by posting on the door.

An Application for Dispute Resolution may be posted to the door in order for a landlord to request an Order of Possession; however, posting is insufficient for seeking a Monetary Order unless the landlord has an Order from an Arbitrator authorizing another form of service.

In light of the above considerations, I authorize and Order the landlords to serve their Application for Dispute Resolution and evidence upon the tenant by posting to the door of the rental unit and that such service shall be considered effective so long as the documents are posted while the tenant is residing at the rental unit.

The landlord's monetary claim was adjourned and the landlords ordered to (re)serve their Application for Dispute Resolution and evidence by posting on the tenant's door.

I proceeded to deal with the tenant's application to cancel the Notice to End Tenancy and the landlords' request to regain possession of the rental unit. During the hearing the parties reached a mutual agreement with respect to the date the tenant will vacate the rental unit and return possession to the landlords. I have recorded the mutual agreement by way of this decision and the Order of Possession that accompanies it.

Issue(s) to be Decided

What are the terms of the mutual agreement?

Background and Evidence

During the hearing the parties mutually agreed and understood that:

1. The tenant shall return vacant possession of the rental unit to the landlords no later than September 25, 2013 and the landlords shall be provided an Order of Possession reflecting this date.
2. The tenant remains obligated to leave the rental unit reasonably clean and undamaged as provided by the Act.
3. The parties shall deal with the landlords' monetary claims at the reconvened hearing.

Analysis

Pursuant to section 63 of the Act, I have the authority to assist parties in reaching a settlement or mutual agreement during the hearing and to record the agreement in the form of a decision or order.

I have accepted and recorded the mutual agreement reached by the parties during this hearing and make the terms an Order to be binding upon both parties.

In recognition of the mutual agreement, I have provided an Order of Possession with an effective date of September 25, 2013 to the landlords to serve and enforce as necessary.

Conclusion

The tenant shall vacate the rental unit and the landlords have been provided an Order of Possession effective September 25, 2013. The tenant's Application and the landlords' request for an Order of Possession are considered resolved by way of this decision.

The landlords' Application pertaining to monetary claims has been adjourned and shall be dealt with at the reconvened hearing. Notices of Adjourned Hearing shall be sent to each party by the Branch under separate cover.

The landlords have been authorized and ordered to (re)serve their Application for Dispute Resolution and evidence to the tenant by posting or attaching the documents to the door of the rental unit and service shall be considered effective so long as the tenant is residing in the rental unit.

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: September 13, 2013

Residential Tenancy Branch

