



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's Application: DRI, CNE, MNR, MNDC, PSF, LRE, FF, O

Landlord's Application: OPE, OPR, MNR, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications identifying numerous issues under dispute. Both parties appeared at the hearing and were provided the opportunity to provide *relevant* testimony and to respond to the submissions of the other party.

Preliminary Issue – Service of Tenant's Application:

The landlord stated the second page of the tenant's Application for Dispute Resolution was blank and the landlord was uncertain as to the remedies the tenants were seeking. The tenants denied inserting a blank page in the hearing package sent to the landlord.

The tenants confirmed that they have since vacated the rental unit. The landlord was uncertain as to whether the tenants have vacated the rental unit. The tenants had no objection to the landlord obtaining an Order of Possession. The tenants also agreed to send the keys to the property to the landlord immediately, via registered mail, using the landlord's PO Box address.

As the tenants stated they are no longer living in the rental unit I found the tenant's requests to cancel Notices to End Tenancy and their requests for the landlord to provide services to them and have conditions set on the landlord's right to enter the rental unit to be moot. As such, the only unresolved issue identified on their Application was their monetary claim.

The tenants indicated they wished to increase their monetary claim and since it was too late to amend their existing Application for Dispute Resolution they requested their monetary claim be withdrawn at this time. I have recorded the tenant's monetary claim

as being withdrawn and I have granted the tenants liberty to reapply for monetary compensation.

Preliminary Issue: Service of Landlord's Application

As the landlord shall be provided an Order of Possession with this decision as the tenants had no objection to this request, and the keys are to be returned to the landlord shortly, the only outstanding issue identified on the landlord's Applications was the landlord's monetary claim.

The landlord submitted that the landlord's Application for Dispute Resolution and amended Application for Dispute Resolution were sent to each tenant via registered mail, at the rental unit address, on November 7, 2013 and November 21, 2013 respectively. The registered mail was returned as unclaimed.

The tenants stated that they have not resided in the rental unit since November 3, 2013 although they acknowledged returning to the property to check for their mail on November 12, 2013 and November 20, 2013. The tenants also stated they returned the landlord's vehicle, provided to them as part of an employment contract, on November 12, 2013.

The landlord submitted that the tenants were residing at the rental unit as of November 12, 2013 and likely into early December 2013. The landlord claimed she could obtain evidence from the RCMP to verify the tenants were living at the rental unit as of November 12, 2013.

Where service of an Application for Dispute Resolution comes under dispute, the applicant bears the burden to prove the documents were served upon the recipient in a manner that complies with the Act. Where a landlord chooses to use registered mail to serve a tenant with an Application for Dispute Resolution the landlord must be prepared to prove the service address used to send the mail was either: the tenant's address of residence at the time of mailing; or, the forwarding address provided by the tenant.

Given the disputed verbal testimony provided to me, in the absence of evidence to support the landlord's version of events, I found I was not satisfied the tenants were residing at the rental unit at the time of mailing or that they otherwise received the landlord's Application for Dispute Resolution or amended Application for Dispute Resolution. Therefore, I dismissed the landlord's monetary claims with leave to reapply.

Conclusion

The landlord has been provided an Order of Possession to ensure vacant possession of the rental unit is returned to the landlord.

The tenants shall immediately return the keys to the rental unit and residential property to the landlord by registered mail.

The parties' respective monetary claims have been dismissed with leave.

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: December 12, 2013

Residential Tenancy Branch

