



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NPR LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was initiated through the Direct Request process, as an *ex parte* Application by the Landlord to obtain an order of possession and a monetary order.

On May 26, 2014, there was a decision made by an Arbitrator to adjourn this matter to a participatory hearing and the Landlord was sent documents, including a Notice of Hearing, to serve on the Tenants. The hearing was to be conducted on July 22, 2014. I note that the first Arbitrator was not seized of the matter and the hearing was assigned to me.

Due to an error in reassigning the file, a second Arbitrator, who was unaware of the May 26, 2014, decision, was assigned the same file and conducted a second Direct Request proceeding. The second Arbitrator determined on June 2, 2014, that the Application should be dismissed with leave to reapply.

I find that the second decision, made on June 2, 2014, is a nullity and must be disregarded. This is because the Arbitrator making the second decision did not have the authority to make a decision since the matter had already been determined (*res judicata*) by the first Arbitrator.

Nevertheless, the Agent for the Landlord appeared at the participatory hearing on July 22, 2014, and explained that the Tenants had already left the rental unit and the Landlord was unable to serve the Tenants with the Notice of Hearing. The Agent testified the Tenants did not provide their forwarding address.

Conclusion

As the Landlord was unable to serve the Tenants with the Notice of Hearing, I dismiss the Application of the Landlord with leave to reapply.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 22, 2014

Residential Tenancy Branch

