



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

CNC, MNR, MNDC, MNSD, OLC, ERP, RP, RPPP, LRE, OPT

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants.

On October 17, 2014, the tenants filed an application for dispute resolution for the following issues: to have the landlord comply with the Act, regulation or tenancy agreement, to have the landlord make repairs to the unit and to allow the tenant to reduce rent for repairs.

On October 31, 2014, the tenants filed an amended application by adding the following issues: for money owed or compensation under the Act in the amount of \$6,000.00, to make emergency repairs for health or safety reasons, to provide services or facility required by law and to suspend or set conditions on the landlord's right to enter.

On November 7, 2014, the tenants filed a second amended application by adding to the above noted issues the following issues: to cancel a notice to end tenancy for cause, to return the tenant's personal property, to obtain an order of possession of the rental unit, to allow access to (or from) the unit or site for the tenant or the tenants' guest, to serve documents in a different way than required by the Act. The tenants' monetary order was also increased from \$6,000.00 to \$20,000.00.

On November 7, 2014, the tenants filed a third amended application by removing the following issue: to allow access to (or from) the unit or site for the rental unit.

On November 12, 2014, the tenants filed in support of their amended applications 37 pages of evidence and on November 14, 2014, a further six pages were filed.

Preliminary matter

The tenants attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing and evidence was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. All subsequent amendments and evidence to support the amendment must be served in accordance with the Residential Tenancy Branch Rules of Procedures (the "rules").

The male tenant stated that they served a lady, (name removed) in person on three occasions, October 17, 2014, October 31, 2014 and November 7, 2014. The tenants stated they do not know this persons last name, but believe she is acting as agent for the landlord.

The female tenant stated she sent the evidence package filed on November 12, 2014, by regular mail address to the above person. The envelope did not contain a surname of the recipient. The female tenant stated they did not send the evidence filed on November 14, 2014.

In this case, the tenants have submitted three amendments to their original application. The last two amendments were filed on November 7, 2014.

Under the Residential Tenancy Branch Rules of Procedures 2.11, all evidence to support an amended application must be served on the party and submitted to the Residential Tenancy Branch at the same time as the amended application is served and submitted.

In this case, I find the tenants have not complied with the rules as their evidence was not submitted or served with their amended application and it was sent by regular mail to a recipient without a surname, there is no evidence to support the evidence was received.

Further, the tenants indicated that they served a lady with their amended applications. However, they were unable to provide a surname of the person served.

In this case, the tenants' application listed PG as the landlord; however, in their shelter information submitted as evidence lists a corporate landlord and the landlord's agent named in the same document is not the name of the person they said to have served.

In light of the above, I am not satisfied that the landlord was served in accordance with the Act, or the rule of procedures. Therefore, I dismiss the tenants' application with leave to reapply.

It should be noted that at the end of the hearing the male tenant was using foul language and making inappropriate comments about the Residential Tenancy Branch staff and myself. The male tenant was asked to exit the hearing. The female tenant did not remain on the line. However, both tenants were informed before they exited the hearing that they had liberty to reapply.

Conclusion

The tenants' application is 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: December 01, 2014

