



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Devon Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes For the landlord: OPR, MNR, MNDC, FF
For the tenant: OPT, OLC, AS, LAT, AAT, FF

Introduction and Preliminary Matters

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act (the “Act”).

The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for money owed or compensation for damage or loss and unpaid rent, and for recovery of the filing fee.

The tenant applied for order of possession for the rental unit, for an order requiring the landlord to comply with the Act, an order allowing the tenant to assign or sublet the rental unit as the landlord has unreasonably withheld permission to do so, an order authorizing the tenant to change the locks to the rental unit, an order requiring the landlord to allow access to the rental unit, and for recovery of the filing fee paid for this application.

The landlord’s representatives (hereafter “landlord”) attended the hearing; the tenants did not. The landlords stated that one of the tenants listed in the tenants’ application and the person making the application, RS, was not their tenant, but rather a squatter who no longer lived in the rental unit.

As to service of their application, filed on November 24, 2014, and Notice of Hearing, the landlord submitted that they served the tenant by registered mail to the dispute address, further stating that the tenant had been taken to jail on October 25, 2014, and had not returned.

Analysis and Conclusion

Landlord's application-

Section 89 of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondent (the tenant in this case) by leaving it with the person, by sending a copy by registered mail to the address at which the person resides or if a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant.

In the case before me, as the landlord provided evidence that the tenant no longer lived in the rental unit or was vacant on the date they filed their application or had provided a forwarding address, I find that the landlord did not serve the tenant in a manner complying with the Act when they sent the application and Notice of Hearing by registered mail.

I therefore dismiss the landlord's application, with leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

Tenants' application-

In the absence of the tenant to present their claim, pursuant to section 10.1 of the Dispute Resolution Rules of Procedure (Rules), I dismiss the tenants' application, without 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 19, 2014

Residential Tenancy Branch

