



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, MNSD, FF

Introduction

This hearing was scheduled to hear a landlord's Application for an Order of Possession for unpaid rent; and, a Monetary Order for unpaid rent, damage to the rental unit, and authorization to retain the security deposit. The landlord's wife appeared to represent the named landlord. The tenant did not appear at the hearing. The landlord had submitted a receipt for the purchase of registered mail on March 30, 2015; however, the receipt did not indicate to whom the mail was sent or the address used for service.

Preliminary and Procedural Matters

In filing this Application on March 26, 2015 the landlord indicated the tenant's address was that of the rental unit; however, the landlord's wife testified that the tenants vacated the rental unit on or before March 17, 2015. The landlord's wife testified that the registered mail sent to the tenant was addressed to the tenant at the forwarding address provided by the property manager but that the registered mail was returned to the landlord for the reason "Recipient not located at address provided. Return to sender." The landlord's wife stated that the return address provided on the envelope was that of the rental unit and that the registered mail had been returned to the landlord since the landlord has a mail forwarding service from the rental unit to their home in another Province. The landlord's wife argued, repeatedly, that she expected Canada Post to forward the registered mail to the tenant at her new address even if the mail was returned to sender since the landlord used the rental unit address as the return address and the landlord understood the tenant had a mail forwarding service in place.

The landlord submitted that she had very recently faxed to the Residential Tenancy Branch a copy of the property manager's email containing the tenant's forwarding address and the Canada Post tracking information. I asked if a copy of the registered mail envelope had been provided to the Branch to which she stated it had not.

Residential Tenancy Policy Guideline 12: *Service Provisions* provides information on service requirements. It provides that where the respondent does not appear at a hearing, the applicant must be prepared to prove service. Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply.

During the hearing, the landlord's wife was cautioned several times to cease interrupting me and her argumentative behaviour. The landlord's wife failed to comply with my instructions.

Pursuant to Rule 8.7 of the Rules of Procedure, parties to a dispute are to exhibit appropriate conduct during a hearing and comply with the instructions of the Arbitrator. Failure to comply with the instructions of the Arbitrator may result in the party being excluded from the proceeding.

I also noted the landlord had not provided a detailed breakdown of the monetary claim, or a copy of the tenancy agreement, 10 Day Notice to End Tenancy for Unpaid Rent; tenancy agreement or receipts or invoices.

Under section 59 of the Act, an Application is to include full particulars of the matter(s) which are the subject of the dispute. This requirement is in keeping with the principles of natural justice so that the respondent is aware of the claims against them and can provide a response. In this case, the landlord indicated multiple issues under dispute, including: unpaid rent, unpaid rent, and failing to winterize a pool, failure to clean, and denying access but the landlord did not indicate how the amount claimed was determined or what the amount claimed included.

Given the failure of the landlord's wife to comply with my instructions during the hearing, insufficient proof of service, and failure to provide sufficient particulars of the landlord's claims against the tenant, I dismissed this Application with leave to reapply.

Conclusion

This Application was 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: May 06, 2015

Residential Tenancy Branch

