Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

DT's application made October 6, 2015: MT; CNR; DRI; FF

Landlord's application made November 3, 2015: OPR; MND; MNR; MNDC

Introduction

This Hearing was convened to consider two Applications for Dispute Resolution. DT applied for an extension of time to make an application to cancel a notice to end tenancy; to cancel a Notice to End Tenancy for Unpaid Rent issued November 1, 2015; to dispute an additional rent increase; and to recover the cost of the filing fee from the Landlord.

The Landlord applied for an Order of Possession; a Monetary Order for unpaid rent and damages to the rental property; and compensation for damage or loss.

DT and the Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Landlord served DT and the BT with the Notice of Hearing documents and copies of the Landlord's documentary evidence, by registered mail, on November 4, 2015. The Landlord's agent provided both of the tracking numbers for the registered mail.

At the outset of the Hearing, the Landlord's agent testified that the Landlord had applied for an early end to the tenancy and provided the file number for that Application, which was heard on November 27, 2015.   The decision on that Application was issued on November 27, 2015. The arbitrator found that DT was not a tenant, but was an occupant only. The Landlord advised that BT vacated the rental unit on September 16, 2015, but that DT remained in the rental unit. The arbitrator also granted an immediate Order of Possession to the Landlord because BT had not provided vacant possession to the Landlord.   DT moved out of the rental unit on November 27, 2015, pursuant to the Order of Possession.

The Landlord has taken back possession of the rental unit and therefore his application for an Order of Possession is dismissed.

The Dispute Resolution process decides issues between tenants and landlords. I explained to the participants that I decline to take jurisdiction over DT's Application for Dispute Resolution because DT is not the Landlord's tenant. He was an occupant only, with no rights or responsibilities under the Act. Likewise, the Landlord's Application against DT is dismissed.

Section 89(1) of the Act provides for methods of service with respect to service of Notice of Hearing documents when the applicant is seeking a monetary award. Section 89(1) of the Act states:

Special rules for certain documents

> **89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:
>
> > (a) by leaving a copy with the person;
> >
> > (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
> >
> > (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
> >
> > (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
> >
> > (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

In this case, RT moved out of the rental unit on or about September 16, 2015, and therefore did not reside there on the date the Landlord mailed the Notice of Hearing package by registered mail. I find that the Landlord did not duly serve RT with the Notice of Hearing documents, and therefore the Landlord's application against RT is dismissed with leave to reapply.

<u>Conclusion</u>

DT's application is **dismissed.**

The Landlord's application against DT is **dismissed.**

The Landlord's application against RT 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 17, 2015

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Residential Tenancy Branch