



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Avaun Properties Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNR, OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to cross applications.

On September 17, 2015 the Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice for Unpaid Rent or Utilities. The Agent for the Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Tenant submitted to the Residential Tenancy Branch with the Application were personally served to an agent for the Landlord on September 20, 2015.

The Agent for the Landlord stated that the Landlord received the aforementioned documents and they were accepted as evidence for these proceedings.

On September 18, 2015 the Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent/utilities, a monetary Order for money owed or compensation for damage or loss, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on September 19, 2015 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord submitted to the Residential Tenancy Branch with the Application were sent to the Tenant, via registered mail, at the rental unit. The Agent for the Landlord cited a tracking number that corroborates this statement. The Agent for the Landlord stated that these documents were returned to the Landlord by Canada Post on October 29, 2015.

As outlined in my interim decision of November 03, 2015, I determined that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not receive the documents. The hearing on November 03, 2015 was adjourned and the Agent for the Landlord was advised that the Application for Dispute Resolution must be re-served to the Tenant in a manner that complies with section 89 of the *Act*.

As outlined in my interim decision of November 03, 2015, the issues remaining to be determined at the reconvened hearing are whether rent and utilities are owed.

Issues to be Decided at the Reconvened Hearing on January 12, 2016

Is the Landlord entitled to a monetary Order for unpaid rent/utilities?

Background and Evidence

The hearing was reconvened on January 12, 2016.

At the hearing on January 12, 2016 the Agent for the Landlord stated that these documents were not re-served to the Tenant, as the Tenant was no longer residing at the rental unit; the Landlord did not have a forwarding address for the Tenant; and the Tenant did not attend the residential complex on November 15, 2015 to pick up the Application for Dispute Resolution and the evidence package, as the Tenant had agreed to do.

The Agent for the Tenant stated that the Tenant did not agree to attend the residential complex on November 15, 2015 to pick up the Application for Dispute Resolution and the evidence package.

Analysis

As the Landlord has failed to establish that the Application for Dispute Resolution was ever received by the Tenant, I find that I am unable to proceed with the Landlord's claim for a monetary Order. The Landlord's claim for a monetary Order is therefore dismissed, with leave to reapply.

Conclusion

The Landlord's Application for Dispute Resolution is dismissed, with leave to reapply. The Landlord retains the right to file an Application for Dispute Resolution seeking compensation for unpaid rent and/or unpaid utilities.

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: January 12, 2016

Residential Tenancy Branch

