



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant's agent, CS and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Landlord's Application

The landlord confirmed that she did not serve the tenant with a copy of her application for dispute resolution hearing package ("Application"). She said that she believed that the Residential Tenancy Branch ("RTB") was going to serve the tenant directly. The tenant's agent stated that the tenant did not receive the landlord's Application and that she only knew to call into this hearing because the tenant had initially filed her own application and she found out at the RTB that the landlord had also filed an application.

I advised both parties at the hearing that because the tenant was not served with the landlord's Application as required by section 59(3) of the *Act*, I could not proceed with the landlord's Application at this hearing. During the hearing, the tenant's agent confirmed the tenant's mailing address, which the landlord confirmed she had.

At the hearing, I advised the landlord that her Application for a monetary order for unpaid rent was dismissed with leave to reapply. I notified her that she would be required to file a new application for dispute resolution and pay a new filing fee if she

wished to pursue the matter further. I advised the landlord that she was not entitled to recover the \$100.00 filing fee paid for this Application.

Both parties agreed that the tenant already vacated the rental unit. The landlord confirmed that she no longer required an order of possession against the tenant. Therefore, the landlord's Application for an order of possession for unpaid rent is dismissed without leave to reapply.

At the outset of the hearing, I notified the tenant's agent, who was using the speakerphone function on her cellular phone, that I could not hear her properly and all parties' comments were echoing. The landlord confirmed that she also could not properly hear the proceedings because of the echoing. I asked the tenant's agent to remove the speakerphone function or to use another telephone in order to minimize the interference but she said that she did not have access to another telephone. I advised the tenant's agent that she would have to arrange a proper telephone to use at the next hearing, preferably without using the speakerphone function, so that there was no interference during the hearing. I advised her that if the parties could not be heard properly during the hearing, that the Arbitrator may not be able to continue the hearing and that it may cause a further delay in the proceedings or the hearing might have to continue in the tenant's or her agent's absence. The tenant's agent confirmed that she would arrange for a proper working telephone without the speakerphone function to be used for the next hearing.

Conclusion

The landlord's Application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent 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: March 03, 2016

Residential Tenancy Branch

