



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KAMLOOPS APARTMENT RENTALS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications. The tenant had applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord had applied for an Order of Possession for unpaid rent and a Monetary Order for unpaid and/or loss of rent; and, authorization to retain the security deposit. The tenant did not appear at the hearing and the landlord was represented by an agent (referred to by their initial DH). DH confirmed that there would be no other person participating in this teleconference call on behalf of the landlord.

DH stated that the tenant's Application had not been served upon the landlord and the landlord had no knowledge of the tenant filing an Application until I mentioned it during the hearing. Since the tenant did not prove service of the tenant's Application upon the landlord I dismissed the tenant's Application with leave to reapply.

As to service of the landlord's Application, DH testified that it was most likely served to the tenant by registered mail since that is the method of service the landlord usually uses for serving an Application. DH stated that he did not have a registered mail receipt and he was unable to provide any other particulars such as the tracking number or the date the registered mail was sent. In response, I informed DH that I would dismiss the landlord's Application with leave since service was not proven. Just before ending the teleconference call DH stated that he just learned from a colleague (referred to by initials RH) who had overheard the proceedings that the landlord's Application had been served in person and that he be permitted to change his submissions as to service. RH was called to testify. I could hear chuckling as the telephone call was transferred to RH. I cautioned the landlord's agents that this was a serious matter. RH testified that he served the tenant with the landlord's hearing documents in person. Initially, RH stated he did not recall the date; however, I could hear somebody, most likely DH, whispering and then RH provided a date of January 18, 2016. I cautioned the landlord's agents that such conduct was unacceptable. When I asked RH to tell me where service occurred I could hear whispering again that included the rental unit number. At that

point I had lost all confidence that I was hearing genuine and truthful testimony on part of the landlord's agents and I decided that I could not rely upon their submissions. Accordingly, I found that the landlord failed to satisfy me that landlord's Application was served upon the tenant and I dismissed the landlord's Application with leave to reapply.

It is important to note that I have not extended any applicable time lines provided under the Act in dismissing these Applications with leave.

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 01, 2016

Residential Tenancy Branch