



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

The two tenants, male and female, did not attend this hearing, which lasted approximately 34 minutes. The two landlords, male and female, 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 – Inappropriate Behaviour by the Landlords during the Hearing

Rule 6.10 of the RTB *Rules of Procedure* states the following:

Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

At the outset of the hearing, I advised the landlords to respect each other and myself, that one person was to speak at any given time, that they were not to interrupt while others were talking, and that they would be given a chance to speak. Throughout the hearing, the landlords repeatedly interrupted me. After I provided my decision regarding service to the landlords, the female landlord used profane language when addressing me and also yelled repeatedly. The landlords displayed rude, hostile, disrespectful and inappropriate behaviour. I repeatedly warned the landlords to stop their inappropriate behaviour but they continued. However, I allowed them to attend the full hearing, despite their inappropriate behaviour, in order to provide them with an opportunity to present their evidence regarding service. I caution the landlords not

to engage in the same behaviour at any future hearings at the Residential Tenancy Branch (“RTB”), as this behaviour will not be tolerated and they may be excluded from future hearings.

Preliminary Issue – Service of Landlords’ Application

The landlords testified that the tenants were served with the landlords’ dispute resolution application and notice of hearing on November 10, 2015 and the complete written evidence package on May 17, 2015, both by way of registered mail. The landlords provided two Canada Post receipts and tracking numbers for the application and notice of hearing service, stating that one of the two packages were returned to them. The female landlord only verbally provided the Canada Post tracking number for one written evidence package service, saying that the other tracking number was lost by Canada Post. The landlords said that both written evidence packages were returned to them.

The landlords confirmed that they mailed the above documents to the tenants’ forwarding address, which was provided to them by way of a text message from the male tenant on November 9, 2015. The landlords confirmed that the address provided to them was probably the male tenant’s employment address. The landlords provided a text message printout copy. In their application, the landlords claimed that the tenants vacated the rental unit without notice and did not attend the move-out inspection. The landlords stated that they last spoke with the tenants on December 21, 2015, via text message and that a text message on January 12, 2016 was not answered.

Analysis – Service of Landlords’ Application

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows:

89 (1) An application for dispute resolution ..., 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;...

(c) by sending a copy by registered mail to the address at which the person resides...;

*(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].

Section 88 of the *Act* sets out the methods by which a written forwarding address can be provided by tenants to the landlords. Text message is not a recognized method under section 88 of the *Act*. Further, the authenticity of the text message provided by the landlords cannot be verified, as it can be altered before it is printed.

I find that the landlords failed to sufficiently demonstrate that the tenants were served with the application and notice of hearing in accordance with section 89(1) of the *Act*. The tenants did not attend this hearing. Text messages are not a recognized method for the tenants to provide a written forwarding address under section 88 of the *Act*. Three of four packages sent to the tenants were returned to the landlords. As I am unable to confirm that the landlords used a forwarding address provided by the tenants in accordance with section 89(1)(d) of the *Act*, I am not satisfied that the tenants were properly served with the landlords' application and notice of hearing.

At the hearing, I advised the landlords that I was dismissing their application with leave to reapply. I notified the landlords that they would be required to file a new application if they wished to pursue orders against the tenants. I notified the landlords that they could apply for an order for substituted service under section 71 of the *Act* to serve the tenants by another method outside of section 89 of the *Act*, if required.

I notified the landlords that they could consult with an information officer at the Residential Tenancy Branch for more information about the *Act* or a lawyer in order to get legal advice regarding how to proceed with their claim. I advised the landlords that I could not give them legal advice or my opinion regarding their claim or future hypothetical matters. However, they continuously asked me these types of questions during the hearing, which I did not answer.

Conclusion

The landlords' Application for a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, is dismissed with leave to reapply.

The landlords' Application to recover the \$50.00 filing fee is dismissed without leave to reapply. The landlords must bear the cost of this filing fee.

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: June 03, 2016

Residential Tenancy Branch