



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding J &W ENTERPRISES LTD.
R. JANG AND ASSOCIATES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“Act”), I was designated to hear an application regarding the above-noted tenancy. The landlords applied for:

- an Order of Possession for unpaid rent, pursuant to section 55; and
- a monetary order for unpaid rent, pursuant to section 67.

The two tenants did not attend this hearing, which lasted approximately 8 minutes. The landlords’ two agents, “landlord RM” and “landlord KB,” 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 – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. An “interim decision,” dated June 14, 2016, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing. The interim decision found that there was no due date for rent indicated in the tenancy agreement, which was necessary to determine the validity of the landlords’ 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated April 8, 2016 (“10 Day Notice”), as landlords cannot ask for rent before the day it is due.

By way of the interim decision, the landlords were required to serve the interim decision, notice of reconvened hearing and application package on the tenants.

Landlord RM testified that the landlords did not serve the tenants with a copy of the interim decision, dated June 14, 2016. Landlord RM said that the landlords did not receive a copy of the interim decision from the Residential Tenancy Branch.

As the landlords have not served the tenants with the interim decision, as required by section 89 of the *Act*, the tenants were unable to attend this hearing. During the hearing, I informed the landlords that I would be dismissing their application with leave to reapply. **This liberty to reapply is not an extension of any applicable limitation period.**

Conclusion

I dismiss the landlords' application 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: July 20, 2016

Residential Tenancy Branch