



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR; MT, CNR, OLC, PSF, RR, FF

Introduction

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

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

This hearing also addressed the tenants' cross application for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") pursuant to section 66;
- cancellation of the landlord's 10 Day Notice pursuant to section 46;
- an order requiring the landlord to comply with the *Act, Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenants did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

Preliminary Matter – Service

The landlord's application was originally initiated as a direct request proceeding, which is a non-participatory hearing. In an interim decision issued on August 17, 2016, an adjudicator determined that the matter was not appropriate for a non-participatory hearing and ordered that a participatory hearing take place. The interim decision

directed the landlord to serve the tenant with a copy of the interim decision and a Notice of Reconvened Hearing (the "Hearing Package").

The landlord testified that the tenants were personally served with the landlord's Hearing Package on August 15, 2016, at the rental unit where the tenants are residing.

Based on the interim decision date of August 17, 2016, I find the landlord did not serve the interim decision and Hearing Package on August 15, 2016. I find it probable that on August 15, 2016 the landlord personally served the Notice of Direct Request Proceedings, which is notice of the claim and notice that adjudication would take place through a non-participatory hearing. In the absence of evidence or testimony confirming service of the Hearing Package, I dismiss the landlord's and tenants' application with leave to reapply.

Conclusion

I dismiss the landlord's and tenants' entire applications with leave to re-apply.

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: October 11, 2016

Residential Tenancy Branch