



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

Both the tenant and the landlord's applications under the *Residential Tenancy Act* (the "Act") were scheduled to be heard on December 12 at 9:30 am PST. The landlord attended at the hearing and the tenant did not.

By way of her Application for Dispute Resolution dated November 7, 2016, the tenant sought more time to apply to cancel a notice to end tenancy and an order cancelling the landlord's 10 Day Notice to End Tenancy dated November 2, 2016 (the "10 Day Notice").

Although the tenant disputed the 10 Day Notice within five days of being served, the landlord testified that she had not been served by the tenant with the tenant's Notice of Hearing or Application package. Accordingly, I am not satisfied that the tenant meant to bring her Application to a hearing.

In her Application for Dispute Resolution dated November 15, 2016, the landlord applied for:

- an order of possession for unpaid rent or utilities pursuant to s. 55;
- a monetary order for unpaid rent or utilities, pursuant to s. 67;
- an order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement pursuant to s. 67; and
- authorization to recover the filing fee for this application, pursuant to s.72.

As the tenant did not attend the hearing, service of the Notice of Hearing by the landlord on the tenant was considered. The landlord stated that the the landlord's Notice of Hearing and Application for Dispute Resolution hearing package were sent by registered mail to the tenant on November 18, 2016.

However, the landlord did not submit any documentary proof of service and she did not have the Canada Post Registered Mail receipt or tracking number with her during the hearing. She advised that she was away when this material was sent, and that her mother had sent it on her behalf. I therefore asked the landlord to provide Canada Post Registered Mail receipts to the Residential Tenancy Branch by the end of the day of December 12, 2016, the day of the hearing, in order to confirm service on the tenant. She has not done so.

Based on this omission by the landlord, I cannot be satisfied that the tenant was served with the landlord's Notice of Hearing and Application package. Accordingly, the landlord's Application dated November 15, 2016 is dismissed, with leave to reapply.

As the tenant did not attend but the landlord did, the tenant's Application is dismissed, without leave to reapply.

Dated: December 15, 2016

Residential Tenancy Branch