



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, CNL, LRE, PSF, OLC, MNDC, MNSD, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel two notices to end tenancy; an order to restrict the landlord's right to access the rental unit; an order requiring the landlord to provide services or facilities; and a monetary order. As noted in my interim decision dated November 9, 2016 I determined that a number of issues were no longer relevant and I amended the tenant's Application accordingly. This decision must be read in conjunction with that interim decision.

The hearing was originally conducted via teleconference on November 9, 2016 and was attended by the tenant, the landlord and his agent. That hearing was adjourned, in part, to allow the tenant to re-serve the landlord with her Application for Dispute Resolution for reasons outlined in my interim decision dated November 9, 2016 and corrected on November 24, 2016.

The tenant testified the landlord was served with her Application for Dispute Resolution and evidence, by fax on December 21, 2016. Section 89 of the *Residential Tenancy Act* (Act) states an Application for Dispute Resolution must be given in one of the following ways:

- a) By leaving a copy with the person;
- b) If the person is a landlord, by leaving a copy with an agent of the landlord;
- c) By sending a copy by registered mail to that address at which the person resides, or if the person is a landlord, to the address at which the person carries on business as a landlord;
- d) If the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant; or
- e) As ordered by the director.

As I had not made any orders in the interim decision regarding the method of service, I find the tenant was restricted in the method she chose to serve documents to that outlined under Section 89. Section 89 does not allow the tenant to serve documents by fax when it includes the Application for Dispute Resolution.

As such, I find the tenant has failed to comply with the requirements to serve the landlord with her Application for Dispute Resolution as required under Section 59.3 of the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation for receiving a Notice to End Tenancy for Landlord's Use of Property;; for all or part of the security and pet damage deposits and to recover the costs associated with pursuing this claim; the filing fee from the landlord for the cost of the tenant's Application for Review Consideration on another file; and the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Act*.

Conclusion

Based on the above, I dismiss the tenant's Application for Dispute Resolution in its entirety with leave to reapply subject to any limitations within the *Act*.

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: January 03, 2017

Residential Tenancy Branch