



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW DECISION

Dispute Codes OPR

Introduction

On April 19, 2017 a non-participatory hearing took place to determine an Application for Dispute Resolution by Direct Request (the "Application") made by the Landlords for an Order of Possession for unpaid rent. The Adjudicator who had conduct of the non-participatory hearing issued the Landlords with a Decision and an Order of Possession because they have provided sufficient documentary evidence to prove the Tenant had failed to pay rent for April 2017.

On May 1, 2017, the Tenant applied for a review of the Decision dated April 19, 2017 on the basis that it was obtained by the Landlords using fraud. On May 5, 2017, the Arbitrator who had conduct of the Tenant's review application determined that there was sufficient evidence to indicate that the Tenant had not received the notice to end tenancy and therefore the Decision was obtained by fraud. As a result, the Tenant was granted this review hearing and the Decision and Order of Possession were suspended until the outcome of this review hearing. A copy of the May 1, 2017 Review Consideration Decision was mailed to the Landlords by the Residential Tenancy Branch. The Tenant was also provided a copy of the Review Consideration Decision along with notice documents for this review hearing for service to the Landlords.

The Tenant appeared for this review hearing and provided affirmed testimony. However, there was no appearance for the Landlords during the 13 minute hearing or any submission of evidence prior to this review hearing. Therefore, I turned my mind to the service of documents by the Tenant to the Landlords for this review hearing.

The Tenant testified that she served a copy of notice of this review hearing to each Landlord by registered mail on May 13, 2017 to the service address on the Application. The Tenant provided the Canada Post tracking numbers into oral evidence to verify this method of service; these numbers are detailed on the front page of this Review Decision. The Tenant testified that the Landlords signed and received the documents on

May 16, 2017 as evidenced by the tracking report on the Canada Post website. Based on the undisputed evidence before me, I find that the Tenant met the service requirements of Section 81(4) of the *Residential Tenancy Act* (the "Act") by serving each Landlord by registered mail under Section 89(1) (c) of the Act.

The Tenant testified that she had not been served with a notice to end tenancy for unpaid rent by the Landlords which was the basis on which this review hearing was granted. In the absence of the Landlords for this hearing to dispute the Tenant's evidence, I accept that the Tenant was not served with a notice to end tenancy. Therefore, I am only able to conclude that this tenancy cannot be ended until such time the Tenant is given a notice to end tenancy pursuant to Section 46(1) of the Act.

The Tenant stated that she is having issues with the Landlord in relation to the payment of rent arrangements for this tenancy stating that the Landlords in this tenancy collect rent from the Tenant and they have not come to the rental unit to collect rent since they made the Application. The Tenant was cautioned of her requirement to pay rent for this tenancy pursuant to Section 26(1) of the Act and was encouraged to resolve the issue of rent payment with the Landlords in writing and to take immediate steps to pay the outstanding rent to the Landlords. The Landlords are at liberty to issue the Tenant with a notice to end tenancy for unpaid rent for any rent that is outstanding at this moment in time.

Analysis and Conclusion

Section 82(3) of the Act provides that following a review hearing, the original Decision or order may be confirmed, varied or set aside. As the Landlord failed to appear for this review hearing and provide evidence that the Tenant had been served with a notice to end tenancy for unpaid rent, the Decision and Order of Possession dated April 19, 2017 are hereby set aside. The tenancy will continue until such time it is ended in accordance with the Act. This Review Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: June 19, 2017

Residential Tenancy Branch