



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNR, MNDC, MND

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlord. Both files were heard together.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for cause.

The landlords amended application is a request for an Order of Possession based on a Notice to End Tenancy given for cause, and a request for a monetary order in the amount of \$2129.25.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Both parties were affirmed.

Decision in Reasons

By the date of the hearing the tenant had vacated the rental unit, and therefore there is no longer need for me to make a decision on whether or not to cancel or uphold the Notice to End Tenancy.

Secondly, the tenant has not received the landlord's amended application for dispute resolution. The landlord testified that she served the notice and hearing package by mailing it to the dispute address, after the tenant had already vacated, in hopes that it would be forwarded, however the tenant testified that she has not received the hearing package.

Section 89 of the Residential Tenancy Act states:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, 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 the 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;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

In this case, the landlord did not serve the amended application in one of the above methods, and therefore I am unwilling to proceed with the hearing on her application.

It is my decision, pursuant to section 62 of the Residential Tenancy Act, that the landlords application is dismissed with leave to reapply.

I will, however allow the landlords request for recovery of the \$100.00 filing fee, as the tenant did not vacate by the date required on the Notice to End Tenancy.

Conclusion

As stated above, the tenant has vacated the rental unit and therefore no decision is required on whether to cancel or uphold the Notice to End Tenancy.

I have dismissed the landlord's amended monetary claim with leave to reapply.

I have issued a monetary order for the tenant to pay \$100.00 to the landlord.

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 24, 2017

Residential Tenancy Branch