



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ARIAS & ASSOCIATES PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL OPRM-DR

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

The landlord was successful in obtaining an Order of Possession for unpaid rent by way of the Direct Request process, and a Decision and Order of Possession were provided by the director, Residential Tenancy Branch dated December 01, 2017. The landlord's application for a monetary order for unpaid rent was dismissed with leave to reapply.

The tenant applied for a Review Hearing, which was successful and the tenant was ordered to serve the landlord with a copy of the Review Consideration Decision and notice of this hearing within 3 days of receipt of the Review Consideration Decision.

The tenant attended the hearing with legal counsel and an observer. However, the line remained open while the phone system was monitored for 15 minutes and no one for the landlord joined the call. Counsel for the tenant submitted that the landlord was served with the material ordered by registered mail on January 2, 2018 and orally provided a tracking number assigned by Canada Post. The landlord was permitted to send to me proof of such service after the hearing concluded. I have now received a Canada Post cash register receipt bearing the date January 2, 2018 and a Registered Domestic Customer Receipt containing the same tracking number, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act* and as ordered by the director.

The *Residential Tenancy Act* places the onus on the landlord to establish that the notice to end the tenancy was issued in accordance with the *Act*. The landlord has not attended the hearing to do so, and therefore, I am not satisfied that the landlord has established that any notice to end the tenancy was given in accordance with the *Act*.

The *Act* also states that following a review hearing I may confirm, vary or set aside the original order. Having found that the landlord has failed to establish that any notice to end the tenancy was given in accordance with the *Residential Tenancy Act*, I hereby set aside the Order of Possession granted on December 01, 2017.

Conclusion

For the reasons set out above, the Order of Possession granted by the director, Residential Tenancy Branch on December 01, 2017 is hereby set aside.

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: February 16, 2018

Residential Tenancy Branch