



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC MENTAL HEALTH SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPC, MNR, FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* ("Act"), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an order of possession for unpaid rent and for cause, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 13 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The hearing began at 11:00 a.m. and ended at 11:13 a.m. The landlord exited the teleconference at approximately 11:03 a.m. in order to move to a quieter area in his car, since he was calling from one of the Residential Tenancy Branch offices in the lobby where it was noisy and I could not hear him properly. The landlord called back in to the teleconference at approximately 11:07 a.m. He intended to call his wife as a witness at this hearing so she was excluded from the car, at the outset.

Preliminary Issue – Service of Landlord's Application

When initially asked about service of the landlord's application for dispute resolution hearing package, the landlord claimed that he served it in person to the tenant but he did not know the date of service.

I find that the landlord was unable to provide the date of service for this application. The tenant did not appear at this hearing to confirm that it received the application.

Accordingly, I find that the landlord failed to prove service in accordance with section 89 of the *Act* and the tenant was not served with the landlord's application.

At the hearing, I informed the landlord that I was dismissing his application with leave to reapply, except for the filing fee. I notified him that he would be required to file a new application and pay a new filing fee, if it wished to pursue this matter further. When providing my decision to the landlord, he became angry, started swearing and then exited the teleconference.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed with leave to reapply.

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: March 23, 2018

Residential Tenancy Branch