



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, OLC, LRE, 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 tenants applied for:

- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause (“1 Month Notice”), pursuant to section 47;
- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order to suspend or set conditions on the landlord’s right to enter the rental unit, pursuant to section 70;
- authorization to recover the filing fee for this application, pursuant to section 72;

“Tenant SA” and the landlord did not attend this hearing, which lasted approximately 12 minutes. Tenant TW (“tenant”) attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that she had permission to speak on behalf of the tenant SA, as an agent at this hearing (collectively “tenants”).

At the outset of the hearing, the tenant confirmed that the tenants had already vacated the rental unit. She said that they were only pursuing their monetary application and the filing fee at this hearing, as they do not require the other relief anymore. Accordingly, these portions of the tenants’ application are dismissed without leave to reapply.

Preliminary Issue – Service of Tenants’ Application

The tenant testified that the landlord was served with the tenants' application for dispute resolution hearing package by leaving a copy inside the door. She said that the tenants' written evidence package was not served to the landlord.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows:

89 (1) An application for dispute resolution ..., 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].*

The tenants are not permitted to leave a copy of their application inside the landlord's door. Accordingly, I find that the tenants failed to prove service in accordance with section 89(1) of the *Act* and the landlord was not served with the tenants' application.

The tenants are also required to serve any written evidence that they intend to rely upon at the hearing, to the landlord, as per section 88 of the *Act*.

At the hearing, I informed the tenant that I was dismissing the tenants' monetary application with leave to reapply, except for the filing fee. I notified her that the tenants would be required to file a new application and pay a new filing fee, if they wished to pursue this matter further.

I cautioned her that the tenants would have to provide specific evidence regarding service of documents at the next hearing. I informed her that she could contact the RTB information officers if required and obtain a lawyer, legal advocate or other agent to assist her with the process.

Conclusion

The tenants' application for a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement is dismissed with leave to reapply.

The remainder of the tenants' application is dismissed without 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 02, 2018

Residential Tenancy Branch