



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD FF CNR OLC RP PSF FF

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for failure to pay rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant’s security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application pursuant to section 72.

Tenant:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for unpaid rent pursuant to section 46 (the 10 Day Notice); an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:20 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

As the tenants failed to participate in this hearing, the tenants' application is dismissed in its entirety without leave to reapply.

The landlord advised the tenants had vacated the rental unit at the end of February 2018; therefore, the landlord was no longer seeking an order of possession. The landlord was seeking monetary compensation for unpaid rent and damages.

The landlord testified that on February 23, 2018, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenants by e-mail.

Preliminary Issue: Service of Landlord's Application

The landlord's representative testified that the application for dispute resolution package was served by sending a copy by e-mail to the tenants.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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 document]...*

I find the landlord did not serve its application for dispute resolution to the tenants in a manner required by section 89(1) of the *Act*. The landlord's application is dismissed with leave to reapply.

Conclusion

I dismiss the tenants' application without leave to reapply.

I dismiss the landlords' application 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: April 09, 2018

Residential Tenancy Branch