



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, DRI, FFT

Introduction

This hearing dealt with an application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's Notice to End Tenancy (the Notice) pursuant to section 47 of the *Act*;
- a ruling on the validity of a rent increase made by the landlord pursuant to section 43 of the *Act*;
- payment of the filing fee from the landlord pursuant to section 72 of the *Act*.

Only the applicant attended the hearing. She gave affirmed evidence that confirmed that both the Notice of Application together with the Dispute Resolution package and, the Amendment to the Application for Dispute Resolution had not been served on the landlord. Although the landlord and the applicant live in the same house, the applicant had tried to serve the documents on the landlord via registered mail and these had been returned.

I left the teleconference hearing connection open for 15 minutes to enable the landlord to call into this teleconference hearing scheduled for 9:30 A.M.; I confirmed from the teleconference system that the applicant and I were the only ones who had called into this teleconference. The applicant was given an opportunity to be heard via affirmed testimony and to make submissions.

Issue(s) to be Decided

Is the applicant entitled to:

- an Order canceling the Notice pursuant to section 47 of the *Act*;
- a ruling on the validity of a rent increase made by the landlord pursuant to section 43 of the *Act*;

- payment of the filing fee from the landlord pursuant to section 72 of the *Act*?

Analysis and Conclusion

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

Although the applicant gave verbal testimony that the landlord refused service via registered mail, I find that there is insufficient evidence to prove proper service of the notice of this hearing, the relevant evidence and, the amendment to the application on the landlord.

During the hearing the applicant provided information consistent with the documentary evidence that she had filed that suggests that she is in fact a sub-tenant. The tenant who also lives in the house has given the owner notice that he is moving out as of July 1st. The tenant has told the applicant and the other persons who also live in separate suites in the house, that they therefore must move out by June 30th.

I explained to the applicant that there were issues of jurisdiction that would have to be addressed at a hearing in the presence of all parties if she wishes to proceed with her application.

Accordingly, I am dismissing this application **with leave to re-apply**.

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: June 28, 2018

Residential Tenancy Branch