Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, 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 early end to tenancy and an order of possession, pursuant to section 56; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 21 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.

At the outset of the hearing, I asked the landlord to remove her telephone from speakerphone because it was causing echoing and feedback, which was interfering with my ability to hear her. The landlord confirmed that she was also having trouble hearing me with the echoing. I asked the landlord to call back in to the conference immediately without the speakerphone function and she did so.

Preliminary Issue – Service of Landlord's Application

When initially asked about service of her application of dispute resolution hearing package, the landlord was not prepared to provide evidence. I provided her with 21 minutes of hearing time to confirm evidence regarding service. The landlord stated that she had to go online to see when she served the documents and then stated that she had a ferry ticket in front of her with a date of July 1 on it, which is when she served some documents.

Initially, the landlord stated that she served the tenants on May 4, May 6, before the July long weekend and then July 1, 2018. When I asked the landlord why the application was not served within three days of June 19, 2018, which is the date on the notice of hearing, she then changed her testimony to state that she served it on June 21, 2018. When I asked why her evidence changed, she said that she remembered fixing the rental unit roof on that date and that was when she served the tenants. She said that she served the tenants on all of the other above dates, with other notices to end tenancy for unpaid rent and for the landlord's use of property. I repeated the necessary documents that the landlord was required to serve to the tenants approximately five times during the hearing, but the landlord continued to provide dates about other irrelevant documents that did not form part of her application.

I find that the landlord provided confusing evidence regarding service of this application, changing her testimony regarding four different dates, two of which were prior to the notice of hearing date. The landlord changed her testimony when I notified her that her documents were required to be served within three days of June 19, 2018.

Accordingly, I find that the landlord failed to prove service in accordance with section 89 of the *Act* and the tenants were not served with the landlord's application. I also note that serving documents by way of email and slipping it in a cat door, which the landlord said she also did, are not valid methods of service under section 89 of the *Act*.

At the hearing, I informed the landlord that I was dismissing her application with leave to reapply, except for the filing fee. I notified her that she would be required to file a new application and pay a new filing fee, if she wished to pursue this matter further. I cautioned her that she would have to provide specific evidence regarding service of documents at the next hearing.

When I provided my decision to the landlord, she became upset, argued with me, yelled at me and called me a "fucking bitch" twice. She asked for my name after I had already provided it to her at the beginning of the hearing, so I repeated it for her again with the spelling. I notified her that my name would also be contained on the written decision that would be provided to her after the hearing was over. When I asked whether she wanted to receive a copy of my decision by way of mail or email, the landlord continued to argue with me and yell profanities at me. When I notified her that my decision would not change, it was not appropriate for her to debate it with me, and I would be happy to answer any questions she had, she continued to argue about the decision. I notified her that I was ending the conference at that time.

For the landlord's information, rule 6.10 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following:

> *6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing*
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> *Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

I caution the landlord not to engage in the same rude, inappropriate and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated and she may be excluded from future hearings. In that event, a decision will be made in the absence of the landlord.

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. I make no findings on the merits of the application. Leave to reapply is not an extension of any applicable limitation period.

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: July 17, 2018

Residential Tenancy Branch