



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR FFT LRE MNDCT OLC

Introduction

The hearing was reconvened from an adjourned hearing held on February 25, 2019. The hearing was adjourned to provide an opportunity for the landlord to serve the tenant with a copy of the tenancy agreement. The tenant testified that he did not receive a copy of the tenancy agreement from the landlord prior to this reconvened hearing.

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "Ten-Day Notice") pursuant to section 46; and,
- reimbursement of the filing fee pursuant to section 72.

This hearing also dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and,
- reimbursement of the filing fee pursuant to section 72.

The tenant attended the reconvened hearing but the landlord did not. The Residential Tenancy Branch (the "RTB") sent both parties the Notice of Dispute Resolution Proceeding for the reconvened hearing by email on February 27, 2019. The landlord was ordered to serve the Notice of Dispute Resolution Proceeding upon the tenant. The tenant testified that he did not receive a copy of the Notice of Dispute Resolution Proceeding from the landlord. However, since the Notice of Dispute Resolution

Proceeding was delivered to both parties by email by the RTB, I find that the parties have been sufficiently served with notice of the reconvened hearing pursuant to section 71(2)(b) of the *Act*.

Preliminary Matter: Non-Appearance of the Landlord

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party or dismiss the application with or without leave to reapply.

As the landlord did not attend this reconvened hearing, and in the absence of any evidence or submissions, I order the landlord's cross-application dismissed without leave to reapply.

At the outset of the hearing, the tenant testified that he has vacated the rental unit on March 2, 2019 so his application to cancel the Ten-Day Notice was no longer required. Accordingly, I dismiss the tenant's application to cancel the landlord's Ten-Day Notice.

Since this matter has been rendered moot without the tenant prevailing on the merits of his application, I dismiss the tenant's application for reimbursement of the filing fee.

Conclusion

The tenant's application for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent and reimbursement of the filing fee are dismissed without leave to reapply.

The entirety of the landlord's cross-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: April 09, 2019

Residential Tenancy Branch