



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, OPT, LRE, AS, AAT, OLC, LA, FF

Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* (“the Act”).

On April 25, 2019, the Landlords applied for an order of possession for the rental unit and a monetary order for unpaid rent based on the issuance of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Landlords also applied to keep the security deposit and to recover the cost of the application fee.

On May 2, 2019, the Tenant applied for the following relief:

- To suspend or set conditions on the Landlords right to enter the rental unit
- To obtain an order of possession for the rental unit
- To be allowed to assign or sublet the unit
- For the Landlord to allow access to the unit or site
- For the Landlord to comply with the Act, Regulation of tenancy agreement
- For authorization to change the locks
- To recover the cost of the filing fee

The matter was set for a conference call hearing. The Landlord attended the hearing; however, the Tenant did not.

Preliminary and Procedural Matters

Since the Tenant failed to attend the hearing, the Tenant’s application is dismissed without leave to reapply.

The Landlord testified that the door to the rental unit was found to be wide open on April 26, 2019. The police were called and attended the unit and informed the Landlord that the rental unit did not have any possessions inside and it appeared to have been abandoned by the Tenant. The Landlord testified that the Tenant moved out of the unit on or before April 26, 2019. The Landlord provided the police case file number. The Landlord testified that the Tenant has not returned the keys to the unit.

The Landlord testified that on May 1, 2019 she served the Tenant with notification of the hearing by sending the Notice of Dispute Resolution proceeding using registered mail to the dispute address. The Landlord testified that she does not know the forwarding address of the Tenant.

Analysis

I find that since the Landlord testified that the Tenant moved out of the unit on April 26, 2019, and the unit is abandoned, it is not reasonable to find that the Tenant received notice of this hearing sent on May 1, 2019.

Receiving a notice of hearing and having an opportunity to participate is of fundamental importance with respect to fairness in these proceedings. The respondent needs to receive notice and have an opportunity to respond.

I find that the Tenant has not been properly served with the Notice of Dispute Resolution Proceeding. The Landlord's application is dismissed with leave to reapply.

Section 44 of the Act provides that a tenancy ends when a Tenant vacates or abandons a rental unit.

It appears the Tenant has vacated the rental unit; left the unit door wide open; and has failed to return the unit keys. I find it reasonable for the Landlord to change the locks of the rental unit to protect her property.

Conclusion

I find that the Tenant was not properly served with the Notice of Dispute Resolution Proceeding documents. The Landlord's application is dismissed 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: May 27, 2019

Residential Tenancy Branch