



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes Tenant: CNR LRE MT MNDC
Landlord: OPR MNR FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on July 4, 2019. Both parties applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the “Act”).

Both parties attended the hearing and provided testimony. The Landlord stated that he sent his Notice of Hearing and evidence to the Tenant by registered mail on June 10, 2019. The Tenant stated that she was no longer living in the rental unit at that point and never received the package. As discussed in the hearing, I find the Landlord has failed to sufficiently serve the Tenant with his application and evidence, as it was sent to an address where the Tenant no longer was living (according to her testimony she stopped staying there on June 9, 2019.) Since the Landlord failed to serve the Tenant with his application and evidence, I dismiss his application, in full, with leave to reapply.

At the hearing, the Tenant provided her mailing address for service for future proceedings, and the Landlord confirmed receipt of this address. The Tenant stated that this is her mother’s address, and she can receive mail here going forward.

The Tenant filed an application as well as an amendment. They will be addressed separately. Firstly, with respect to her initial application, she applied to cancel a 10 Day Notice to end tenancy (the Notice), for more time to make her application to cancel the Notice, and to set conditions on the Landlord’s right to enter the rental unit. During the hearing, the Tenant expressed that she no longer lives in the rental unit, and the Landlord illegally evicted her by moving her things out while she was not there and trying to re-rent to someone else. The Tenant stated that she still has some of her belongings stored outside the rental unit. The Landlord stated that the rental unit is now

being rented out by other people, and a new tenancy agreement has been entered into with those people. Having considered the totality of the situation before me, I find that all of the grounds on the Tenant's initial application are now moot, as she no longer lives in the rental unit. I find it important to note the following: a new tenancy agreement has been created between the Landlord and the new tenants, the applicant and previous Tenant stopped residing there almost a month ago, and there are now other people living in the rental unit. As such, I am unable to end the newly formed tenancy or to reinstate the Tenant's previous tenancy. The tenancy is over. Since all of the grounds on the Tenant's initial application are moot, I dismiss them, in full, without leave to reapply. At this point, the only remedy available to the Tenant, or the Landlord, is an application for monetary compensation.

With respect to the Tenant's amendment she filed as part of this application, I note she submitted this amendment on June 18, 2019, and sent it to the Landlord by registered mail on June 19, 2019. The Landlord was not sure when he received it but acknowledged getting it. Pursuant to section 88, 89, and 90 of the Act, I find the Landlord is deemed served with this amendment 5 days after it was mailed, on June 24, 2019. However, I note that as the applicant, the Tenant was required to serve her application, amendment and evidence, no later than 14 days prior to the hearing, as per the Rules of Procedure. The Tenant was required to ensure the Landlord received her amendment no later than June 20, 2019. As she filed her amendment late (seeking monetary compensation), I dismiss it in full, with leave to reapply. Both parties are granted leave to reapply for monetary compensation.

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 5, 2019

Residential Tenancy Branch