



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

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

- an Early Termination of Tenancy and Order for Possession due to the tenant posing an immediate and severe risk to the rental property pursuant to section 56 of the *Act*.

Only the landlord and the landlord's agent J.S., who is the landlord's son, attended the hearing at the date and time scheduled for this hearing.

As only the landlord and her agent attended the hearing, I asked the landlord's agent to confirm that the tenant had been served with the Notice of Dispute Resolution Proceeding for this hearing. The landlord's agent was unable to provide confirmation of the service of the Notice of Dispute Resolution Proceeding to the tenant.

The landlord's agent explained that the tenant was arrested mid-June 2019 and the landlord was provided with a restraining order against the tenant which included conditions for the tenant to stay away from the rental unit. The tenant attended the rental unit once accompanied by police to retrieve some of his personal belongings. During that visit, the landlord's agent testified that the tenant stated to the police officers in attendance that he would not be coming back. The landlord's agent testified that they have not seen the tenant since. The landlord's agent testified that the tenant has not paid rent for the month of July 2019.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure requires:

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

In this matter, the respondent did not attend the hearing to confirm receipt of the notice of this hearing, and the applicant, who was the landlord in this matter, was unable to provide proof of service of the Notice of Dispute Resolution Proceeding package.

For these reasons, I am not satisfied that the tenant has been sufficiently served with the Notice of Dispute Resolution Proceeding as required by the *Act*.

Therefore, I dismiss the landlord's application with leave to reapply. I note this decision does not extend any applicable time limits under the *Act*.

As the landlord's agent stated they wished to proceed with the next steps in addressing this tenancy in accordance with the residential tenancy legislative requirements and processes, I informed them that they could contact the Residential Tenancy Branch to speak with an Information Officer or visit the Branch's website. The Information Officers at the Residential Tenancy Branch are accessible by telephone and email to provide assistance to both landlords and tenants regarding the process to be followed when a tenancy agreement is in dispute and the appropriate remedies available under the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the *Act*.

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 11, 2019

Residential Tenancy Branch