



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“Act”), I was designated to hear an application regarding the above-noted tenancy. The landlords applied for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

“Landlord DG” and the two tenants did not attend this hearing, which lasted approximately 15 minutes. Landlord RA (“landlord”) attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he had permission to represent landlord DG as an agent at this hearing (collectively “landlords”).

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. An “interim decision,” dated May 28, 2019, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenants with copies of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself. The landlord did not know when he received the interim decision. He claimed that he sent the above documents by registered mail to the tenants. He was unable to provide a date of service, indicating it was May 20, 2019, but when I questioned how it was served before the interim decision was issued on May 28, he stated that he could not read the date on the receipt.

The landlord was provided with ample time during the hearing to locate the date and tracking number for service. He left the phone line twice to go find his cellular phone and his computer in order to find this information. He researched and attempted to find the date but was unable to do so.

Accordingly, I find that the tenants were not served with the interim decision, notice of reconvened hearing and all other required documents, as per section 89 of the *Act*. The landlord did not know when he received the interim decision. He provided an incorrect date of service prior to the interim decision being issued.

I notified the landlord that the landlords' application was dismissed with leave to reapply, except for the filing fee. I informed him that the landlords would be required to file a new application, pay another filing fee and provide proof of service at the next hearing, if they choose to pursue this matter further.

Conclusion

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlords' 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: July 12, 2019

Residential Tenancy Branch