



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the applicant'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*; and
- recovery of the filing fee from the tenant pursuant to section 72 of the *Act*.

Only the applicant attended the hearing at the date and time scheduled for this hearing. The respondent did not attend this hearing, although I left the teleconference hearing connection open until 9:15 a.m. in order to enable the respondent to call into this teleconference hearing scheduled for 9:30 a.m.

As only the applicant attended the hearing, I asked the applicant to confirm that the respondent had been served with the Notice of Dispute Resolution Proceeding for this hearing and that an RTB-9 Proof of Service statement had been completed and submitted to the Residential Tenancy Branch (RTB). The applicant testified that she had posted the notice on the door on July 10, 2019 but was not aware that she was required to complete and submit to the RTB the Proof of Service statement (RTB-9). The landlord testified that the respondent had attended at the rental property on July 17, 2019 with a truck to remove items and cause further damage to the property, but the applicant is still unsure whether or not the respondent intends to return and the respondent has not returned the keys to the property.

Rule 10.9 of the Residential Tenancy Branch Rules of Procedure requires:

10.9 Proof of Service

An applicant must provide proof of service by submitting RTB 9 Proof of Service – Notice of a Dispute Resolution form one day after serving the Notice of Dispute Resolution Proceeding Package and at least two days before the hearing. Failure to do this may result in the application being dismissed or the hearing being rescheduled or adjourned to a later date.

In this matter, the respondent did not attend the hearing to confirm receipt of the notice of this hearing, and the applicant did not submit proof of service of the Notice of Dispute Resolution Proceeding package, form RTB-9.

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

As the applicant stated she still had concerns about regaining possession of the property, I informed the application that she 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 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 applicant entitled to an early end to this tenancy and an Order of Possession?

Conclusion

The applicant'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 25, 2019

Residential Tenancy Branch