



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL

Introduction

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

- an order of possession for landlord's use of property, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 17 minutes. The 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 provided a written authorization with her application, indicating that she needed help with English and she would have two people assist her with translation at this hearing. At the hearing, the landlord claimed that these two people were not available to assist her and that no one else could do so.

The landlord had a lot of difficulty understanding me, despite how many times I repeated and rephrased my questions. This hearing lasted 17 minutes just asking the landlord about service of her application, including which documents were served, when they were served, and how they were served.

The landlord testified that the tenant was served with a copy of the landlord's notice of hearing on June 22, 2019, by way of registered mail to the rental unit. The landlord provided a Canada Post receipt and tracking number with this application. The landlord confirmed the tracking number verbally during the hearing. .

When I asked the landlord whether she served a copy of her application for dispute resolution and evidence, she could not understand me, no matter how many times I

repeated the question. She kept saying that the tenant did not pick up the mail and it was returned to her.

I find that the landlord did not serve the tenant with her application for dispute resolution. The landlord did not know what I was talking about and could not answer this question. Even if the landlord served the tenant with the landlord's notice of hearing, the tenant would not have notice of what the hearing was for, if she did not receive the application for dispute resolution requesting the order of possession.

I notified the landlord that her application was dismissed with leave to reapply. I informed her that she would be required to file a new application, pay another filing fee and provide proof of service at the next hearing, if she chooses to pursue this matter further. I also encouraged her to obtain assistance from an English language translator for the next hearing, since she had difficulty understanding and speaking English.

Conclusion

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: August 12, 2019

Residential Tenancy Branch