



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 12 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 had a lot of difficulty understanding English, despite how many times I repeated and rephrased my questions. This hearing lasted 12 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, 2 Month Notice to End Tenancy for Landlord's Use of Property and written tenancy agreement on June 22, 2019, by way of registered mail to the rental unit. The landlord provided a Canada Post tracking number verbally during the hearing, as she did not provide a copy of the Canada Post receipt with her application.

When I asked the landlord whether she served a copy of her application for dispute resolution, she could not understand me, no matter how many times I repeated the question. She kept saying that she saw the tenant at the rental unit the other day and he said he was moving out.

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 he 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