



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession pursuant to a 10 Day Notice to End Tenancy for Unpaid Rent ("Notice"), a monetary order for unpaid rent, and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord was affirmed into the hearing and I proceeded to hear her testimony.

The hearing process was explained to the landlord and she was given an opportunity to ask questions about the hearing process. Thereafter, the landlord was provided the opportunity to present her evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary and Procedural Matters - Service of the hearing documents

The landlord confirmed that the tenant has vacated the rental unit and while she does not know the specific date, she believes it was around July 28, 2019. The landlord said she posted a notice of entry and confirmed that all the tenant's personal property has been removed. As a result, the landlord agreed that she no longer needed an order of possession of the rental unit. The landlord asked to proceed with her monetary claim for unpaid rent.

The landlord testified that she served the tenant with her Application for Dispute Resolution and Notice of Hearing by attaching the documents to the tenant's door on July 25, 2019.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(2) of the Act, which allows for service of the hearing documents in this manner when a landlord is seeking an order of possession of the rental unit.

As the landlord no longer needed the order of possession, I then turned to her request for monetary compensation.

Section 89(1) of the Act requires that the application for dispute resolution, which includes the notice of hearing, must be given by personally handing the documents to the tenant or by registered mail to the tenant's address where they reside or to their forwarding address.

As the hearing documents were not served to the tenant according to the requirements of section 89(1) of the Act, I dismiss the portion of the landlord's application for a monetary order for unpaid rent, with leave to reapply.

As I did not proceed with the landlord's application, I decline to award her recovery of her filing fee.

Conclusion

The landlord's request for an order of possession of the rental unit was moot as the tenant vacated the rental unit prior to the hearing.

The portion of the landlord's application seeking monetary compensation was dismissed with leave to reapply, due to service issues as described above.

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: September 23, 2019

Residential Tenancy Branch