



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPUM-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 landlord applied for:

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

The two tenants did not attend this hearing, which lasted approximately 21 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.

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 August 15, 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 a copy 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 state when he received the interim decision. He claimed that he did not know when he served the above documents to the tenants. He explained that he thought he served it on August 26, 2019 but then mentioned he was required to serve it by August 29, 2019. He testified that the documents were served by way of registered mail.

The landlord said that he got a couple of emails from the RTB with the documents but some documents were missing so he did not know which email to look at. During the hearing, the landlord was looking up his email online and asking me what the titles of the emails were. He also asked me repeatedly what the documents were that he was required to serve. I repeated at least three times what the documents were and the landlord claimed that he was having a panic attack because he could not find the information. The landlord did not provide any Canada Post tracking numbers verbally during the hearing.

I find that the tenants were not served with the interim decision and notice of reconvened hearing as required by section 89 of the *Act*. The landlord did not know when he received the interim decision, when he served it, or whether it was within the 3 days required. The landlord was asking me when he received the documents from the RTB, what they were called, and when he served them.

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

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply. The remainder of 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: September 26, 2019

Residential Tenancy Branch