



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the landlord for an order of possession, for a monetary order and to recover the filing fee.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified that the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on August 30, 2019 and a secondary copy was placed on their door.

Section 90 of the Act determines that a document served by registered mail is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord stated at the outset of the hearing that the tenant vacated the premise on September 24, 2019. Therefore, I find it not necessary to issue an order of possession.

The landlord requested an order for unpaid rent; however, I cannot consider an issue that was not in their application. Further, I find the landlord's claim for damages should be dismissed with leave to reapply. I find it reasonable that the landlord makes one application for monetary compensation for unpaid rent and any damages that occurred

during the tenancy. The Residential Tenancy Branch Rules of Procedures stated that a claim cannot be divided.

The landlord seeks to recover the filing fee. I find that appropriate as the tenant did not vacate the rental unit and the landlord was required to file an application.

I find the landlord has established a monetary claim of \$100.00. The landlord is granted a formal order pursuant to section 67 of the Act.

I have not offset the order with the tenant's security deposit, as the tenant has not given to the landlord a forwarding address as required by the Act, and the landlord has a potential claim for unpaid rent and damages.

The landlord seeks to recover a filing fee that was for a previous filed application, which that application was cancelled. The landlord indicated that they were told they could not amend the original application and that they had to file a new application. However, I have no authority to grant the landlord a filing fee that is not before me.

This decision is made on authority delegated to me by the Director of the Residential Tenancy under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 27, 2019

Residential Tenancy Branch