



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, LAT, RR, OLC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46;
- a Monetary Order for damage or compensation under the *Act*, pursuant to section 67;
- authorization to change the locks, pursuant to section 31;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The landlord attended the hearing and was each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant called into the hearing but hung up once she realized the landlord was also on the telephone line. A few minutes later the tenant called into the hearing again and stated that she could not be on the telephone line if the landlord was on the telephone line and again hung up the phone. I left the telephone line open until 11:10 a.m. but the tenant did not call back in.

Issues to be Decided

1. Is the tenant entitled to cancellation of the 10 Day Notice to End Tenancy for Unpaid Rent, pursuant to section 46 of the *Act*?

2. Is the tenant entitled to a Monetary Order for damage or compensation under the *Act*, pursuant to section 67 of the *Act*?
3. Is the tenant entitled to change the locks, pursuant to section 31 of the *Act*?
4. Is the tenant entitled to an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62 of the *Act*?
5. Is the tenant entitled to an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65 of the *Act*?
6. Is the tenant entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*?

Background/Evidence

The landlord testified that the tenant did not serve her with the tenant's application for dispute resolution, just some evidence. The Residential Tenancy Branch (the "branch") audit notes show that the landlord called the branch on September 13, 2019 and an information officer confirmed that the tenant filed an application for dispute resolution and provided the landlord with the hearing information.

Analysis

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

I accept the landlord's undisputed testimony that she was not served with the tenant's application for dispute resolution which is supported by the branch's audit notes.

Rule 7.1 and 7.3 of the Residential Tenancy Branch Rules of Procedure provide as follows:

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenant failed to attend the entirety of this hearing and failed to set out her claim.

Based on the tenant's failure to serve the landlord and in the absence of any evidence or submissions from the tenant, I order the application **dismissed without liberty 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: November 05, 2019

Residential Tenancy Branch