



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MND-S, MNR-S, FF

Introduction

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

- an order of possession for cause pursuant to section 55;
- a monetary order for unpaid rent and for damage to the unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The landlord with the assistance of her translator/son provided undisputed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package via Canada Post Xpress Post with a signature requirement on October 11, 2019. The landlord provided undisputed testimony that the package is in the process of being returned by Canada Post as "unclaimed". The tenant did not pick up the package. I accept the undisputed testimony of the landlord and find that the tenant is deemed served as per section 90 of the Act.

The landlord stated that the tenant was served with the landlord's late evidence submission on November 4, 2019 via Canada Post. Extensive discussions took place with the landlord. The landlord clarified that the landlord was not aware of the time limitations for service of documents because of her lack of understanding. The landlord stated that she did not seek assistance in reading the documents.

The landlord provided testimony that she had been informed by other tenants of the building that the named tenant had vacated the rental unit on November 4, 2019 when the landlord visited the location. The landlord stated that an order of possession was no longer required as the landlord now has control of the rental unit despite the tenant not returning the keys.

The landlord stated that the tenant was served with the submitted late evidence on November 4, 2019. I find based upon the evidence of the landlord that the tenant could not have been properly served with the submitted late evidence as the tenant was no longer occupying the rental unit. As such, the landlord's late documentary evidence was excluded from consideration in this decision.

Extensive discussions took place and the end result after 63 minutes was the landlord has chosen to cancel the entire application for dispute and does not wish to proceed at this time. No further action is required at this time.

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 12, 2019

Residential Tenancy Branch