



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

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55 of the *Act*;
- a Monetary Order for unpaid rent, pursuant to section 67 of the *Act*; and
- recovery of the cost of the filing fee for this application from the tenant, pursuant to section 72 of the *Act*.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:18 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord's agent R.L., herein referred to as "the landlord", attended and was given an opportunity to present sworn testimony. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

Preliminary Issue – Service of the Landlord's Application for Dispute Resolution

As the tenant did not attend the hearing, I asked the landlord to confirm that the tenant had been served with the Notice of Dispute Resolution Proceeding for this hearing, which contains the landlord's Application for Dispute Resolution. The landlord testified that he served the tenant with the Notice of Dispute Resolution Proceeding package which included the landlord's application for an Order of Possession and Monetary

Order for unpaid rent, by posting the package on the tenant's rental unit door on September 25, 2019.

Section 89 of the *Act* sets out "special rules" for the service of certain documents. Section 89(1) of the *Act* requires that an application for dispute resolution be served by a landlord to a tenant in person, by registered mail, or as ordered by the Residential Tenancy Branch director.

Section 89(2) of the *Act* allows for an exception to the above-noted rules when a landlord is serving a tenant with an application for dispute resolution for an Order of Possession. In such cases, the landlord may serve the application to the tenant by attaching it to the tenant's door or other conspicuous place at the address where the tenant resides.

As the landlord served their application by attaching it to the tenant's door, I find that the landlord has not served the tenant with the application for dispute resolution in relation to the request for a Monetary Order in accordance with section 89(1) of the *Act*. As such, the landlord's application for a Monetary Order is dismissed with leave to reapply due to an issue with service of documents.

The landlord testified that the tenant had vacated the rental unit on September 28, 2019 and therefore he no longer required an Order of Possession as the landlord had already regained possession of the rental unit. Therefore, the landlord's request for an Order of Possession is dismissed without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to recovery of the filing fee for this application from the tenant?

Conclusion

The landlord's application for a Monetary Order was dismissed with leave to reapply due to an issue with service of documents.

The landlord's application for an Order of Possession was dismissed without leave to reapply as the tenant had already vacated the rental unit.

The landlord must bear the costs of the filing fee as the landlord was unsuccessful in obtaining an order from this Application.

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 28, 2019

Residential Tenancy Branch