



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: FFL OPRM-DR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for:

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

While the landlord's agent JN ("landlord") attended the hearing by way of conference call, the tenant did not. I waited until 11:07 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent confirmed at the beginning of the hearing that the tenant had moved out sometime on or around October 16, 2019, and that the landlord no longer required an Order of Possession. Accordingly, this portion of the landlord's application was cancelled.

Preliminary Issue - Service of the Application for Dispute Resolution

The landlord's agent testified that the tenant was served with the landlord's application for dispute resolution package on October 31, 2019 by way of registered mail. The landlord provided the tracking information in their evidentiary materials.

The landlord's agent testified that on October 16, 2019, the landlord was contacted by a neighbour of the tenant that the tenant had moved out of the rental unit. The landlord testified that the tenant had left a dresser in the hallway outside the rental unit. The landlord provided twenty-four hour's notice in order to enter the rental unit, and confirmed on October 20, 2019 that the unit was vacant. The tenant did not provide a forwarding address to the landlord in writing, and the landlord still holds the \$625.00 security deposit for this tenancy.

The landlord filed an application to recover \$1,300.00 in unpaid rent for this tenancy, as well as the filing fee.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a Monetary Order.

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;...*

As the tenant had moved out before the landlord was able to serve the tenant with the dispute resolution package, and as there is no confirmation that the tenant was served with the package in a manner required by section 89(1) of the *Act*, I cannot consider the landlord's application for a Monetary Order.

Accordingly, I dismiss the landlord's application with leave to reapply

Conclusion

The landlord withdrew their application for an Order of Possession.

The monetary portion 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: December 5, 2019

Residential Tenancy Branch