



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR

Introduction

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

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

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

The Applicants testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on October 4, 2019, Canada post tracking numbers were provided as evidence of service. The Applicants stated that the packages were returned "refused". Filed in evidence are the returned packages show that the Respondents refused service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days after mailing. I find that the Respondents have been duly served in accordance with the Act. **Refusal to accept the package does not override the deemed service provisions of the Act.**

Preliminary and procedural matters

At the outset of the hearing the Applicants testified that they are the owners of the property and the co-owner EH, who holds $\frac{1}{4}$ interest in the property, allowed the occupants to move into the property on July 15, 2019, as the occupants said they would purchase the property.

The Applicants testified that the Respondents have not entered into an agreement to purchase the property and they refuse to enter into a tenancy agreement. The Applicants state the occupants have changed the locks and refuse to vacate the property.

The Applicants witness, the real estate agent, stated that the occupants have not entered into a contract to purchase the property and most likely don't have the money to do so. The witness stated that the occupants told to them that they were just going to go through their lawyers and not use their services; however, they have not done so.

Filed in evidence is a copy of the land title documents. Filed in evidence is a request to enter into a tenancy agreement

In this case, based on the unopposed evidence before me, I am satisfied that there is enough evidence to support a landlord and tenant relationship does not exist. While the occupants may have been given permission to occupy the premise with the expectation of purchasing the property, they have not entered into a contract to purchase the property with the owners on the title of the land. The Applicants who are the owners of the property are entitled to revoke their permission at anytime.

Occupants who are not tenants do not have the protection of the Residential Tenancy Act and they must vacate the premise when asked by the owner revokes permission to occupy the property. I find the Applicants are entitled to have the occupants removed from the premises, as they do not have permission to occupy the premise from the owners.

The Applicants may seek the assistance from the local authorities in the assistance of having the occupants removed, if they are unwilling to vacate the property.

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 05, 2019

Residential Tenancy Branch