



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL; CNR, OLC, LRE, LAT

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") 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 his application, pursuant to section 72.

This hearing also dealt with the tenant's application pursuant to the *Act* for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated October 9, 2019 ("10 Day Notice"), pursuant to section 46;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70; and
- authorization to change the locks to the rental unit, pursuant to section 70.

The tenant did not attend this hearing, which lasted approximately 13 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she had permission to represent the landlord named in this application, as an agent at this hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

The landlord testified that she did not know how or when the tenant was served with the landlord's application for dispute resolution hearing package. Accordingly, I find that the tenant was not served with the landlord's application, as required by section 89 of the *Act*. I notified the landlord that the landlord's application was dismissed with leave to reapply, except for the \$100.00 filing fee.

Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the Residential Tenancy Branch *Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing: 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.

In the absence of any appearance by the tenant, I order the tenant's entire application dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 10 Day Notice, the landlord is entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*.

The landlord did not have all of the required information in front of her during the hearing, in order to provide sufficient evidence regarding the 10 Day Notice and an order of possession. Therefore, I notified the landlord that the landlord was not entitled to an order of possession against the tenant.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlord's application for an order of possession and a monetary order for unpaid rent 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: January 09, 2020

Residential Tenancy Branch