



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenants: CNR, OLC, RP, LRE, RR
For the tenants: CNR, FFT (Additional application)
For the landlords: OPR, MNRL-S, MNDCL, MNDL-S, FFL

Introduction, Preliminary and Procedural Matters-

These matters convened by teleconference on February 28, 2020 to deal with the two applications of the tenants and the landlord's application.

The tenants applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (Notice) served to them by the landlord, for an order requiring the landlord to comply with the Act, the Regulations, or the tenancy agreement, an order requiring the landlord to make repairs to the rental unit, an order suspending or setting conditions on the landlord's right to enter the rental unit, and for an order reducing the monthly rent.

The tenants then filed another application for dispute resolution, in conjunction with their original application and the landlord's cross application, rather than amending their original application. The tenants' additional application sought cancellation of another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities served on them by the landlord. The tenants' additional application was scheduled to be heard with the parties' cross applications.

The landlords applied for an order of possession for the rental unit pursuant to the Notice, a monetary order for unpaid rent, compensation from the tenants for money owed and alleged damage to the rental unit, and for recovery of the filing fee paid for this application.

The tenants did not attend the original hearing and as a result, their applications were dismissed in the Interim Decision of March 4, 2020.

That Decision should be read in conjunction with this final Decision.

The original hearing proceeded on the landlord's application and the landlord provided testimony in support.

The landlord confirmed that the tenants had vacated the rental unit and they no longer required an order of possession of the rental unit.

As evidence of the method in which the landlord served the tenant with their Application for Dispute Resolution, Notice of their hearing and supporting documents (hearing documents) was not provided at the original hearing, it was necessary to reconvene the hearing for clarification.

Although notified of the date and time for the reconvened hearing by email to their confirmed email address, the tenants did not appear.

At the reconvened hearing, the landlord testified that they served the tenants by regular mail, as they had been sent the tenants' application by regular mail.

The landlord had been made aware that this was not in the required method of service.

Analysis and Conclusion

Section 89(1) of the Act requires that the application for dispute resolution, which includes the notice of hearing, must be given by personally handing the documents to the tenants or by registered mail to the tenants' address where they reside or to their forwarding address.

The landlord confirmed they served the tenants with their hearing documents by regular mail.

I therefore find the landlord's hearing documents were not served to the tenants according to the requirements of section 89(1) of the Act. I therefore I dismiss the landlord's application, with liberty to reapply.

As I did not proceed with the landlord's application, I decline to award them recovery of the filing fee.

Conclusion

The landlord's request for an order of possession of the rental unit was moot as the tenants vacated the rental unit prior to the original hearing.

The portion of the landlord's application seeking monetary compensation was dismissed with leave to reapply, due to service issues as described above.

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: March 27, 2020

Residential Tenancy Branch