



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT, FFT

This hearing dealt with an Application for Dispute Resolution filed by the Tenants under the *Residential Tenancy Act* (the “Act”), for an Order of Possession and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Tenants, who provided affirmed testimony. The Landlord did not attend. The Tenants were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As neither the Landlord nor an agent for the Landlord attended the hearing, I confirmed service of these documents as explained below.

The Tenants testified that the Notice of Dispute resolution Proceeding, including a copy of the Application and the Notice of Hearing, were sent to the Landlord by email on June 4, 2020 and that a telephone message was also left for the Landlord advising them of this email service. The Tenants provided me with a copy of the email showing that the Notice of Dispute Resolution Proceeding was sent to the Landlord as described above, and copies of email correspondence with the Landlord at this email address in relation to the tenancy/tenancy agreement. As a result, I find that the Landlord was deemed served in accordance with section 71 (2) (b) and (c) of the *Act*, the Director’s Order regarding email service dated March 30, 2020, and the Rules of Procedure on June 7, 2020, three days after the email was sent. Rule 7.3 of the Rules of Procedure states that 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. As a result, the hearing proceeded as scheduled despite the Landlord’s absence as I was satisfied that they were deemed served with notice of the hearing and provided with an opportunity to attend.

The Tenants stated that at the time the Application was filed, they were seeking possession of the rental unit in accordance with their tenancy agreement. However, the

Tenants stated that due to the Landlord's failure to comply with their tenancy agreement and the Landlord's refusal to allow them to move into the rental unit in accordance with their tenancy agreement, they were forced to seek and secure alternate accommodation. The Tenants stated that as a result, they no longer require possession of the rental unit and will instead be seeking monetary compensation from the Landlord in a subsequent Application. The Tenants therefore withdrew the Application and remain at liberty to reapply, should they wish to do so.

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*.

At the request of the Tenants, copies of the decision will be emailed to them at the email addresses provided in the Application.

Dated: June 16, 2020

Residential Tenancy Branch