



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC-MT, LRE, LAT, OLC**

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- cancellation of a 1 Month Notice pursuant to section 47;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to change the locks to the rental unit pursuant to section 70; and
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was represented by counsel.

The tenant testified that they had not served the landlord with their application or any materials. The landlord confirmed that they had not been served. The landlord testified that they had served the tenant with their evidence by posting on the rental unit door on July 24, 2020. The tenant disputed that they had been served with the landlord's materials.

Issue(s) to be Decided

Is the tenant entitled to any of the relief sought? Is the landlord entitled to an Order of Possession on the basis of a 1 Month Notice?

Analysis

Section 89(1) of the *Act* establishes the following rules for service of certain documents, which include an application for dispute resolution:

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;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

An application for dispute resolution must be served on the other party. The tenant stated that they chose not to serve their application for dispute resolution on the landlord in any manner. Therefore, I find that the application was not served on the landlord as required under the *Act* and I dismiss the tenant's application in its entirety with leave to reapply.

Section 55 of the *Act* provides that:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

While I have dismissed the tenant's application, the landlord has not provided a copy of a 1 Month Notice and I am consequently unable to determine whether any notice that complies with the form and content requirements of the *Act* was issued. Accordingly, I decline to issue an Order of Possession for the landlord.

Conclusion

The tenant'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: July 30, 2020

Residential Tenancy Branch