



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, OPB, OPR, MNDL, MNRL, MNDCL, FFL

Introduction

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

- an order of possession based on a mutual agreement to end tenancy, for breach of an agreement and for unpaid rent, pursuant to section 55;
- a monetary order for damage to the rental unit, for unpaid rent, and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 19 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Landlord's Application

The landlord stated that the tenant was served with the landlord's application for dispute resolution hearing package by way of registered mail. Initially, he stated that he did not know the date of service. After looking through his paperwork, he claimed that it was done on August 12, 2020. When I asked for the Canada Post tracking number, the landlord claimed that he did not know if he had one. He then read out a series of numbers which was not a tracking number. He later read out another series of letters and numbers, claiming that he did not know whether it was a tracking number. When I asked whether he sent the mail registered with a signature option, he said that he did not know. The landlord said that he had a bunch of receipts that he was going through during the hearing.

The landlord claimed that he also posted the application to the tenant's rental unit door. I notified him that posting could only be done for an order of possession claim, not for a monetary claim. He initially stated that he did not know the date of posting, that it was either August 10 or 12. He then claimed that it was probably August 12, because that was the date he mailed the application to the tenant.

Residential Tenancy Policy Guideline 12 states the following, in part (emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service,** or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report.***

Accordingly, I find that the tenant was not served with the landlord's application, as per section 89 of the Act. The landlord did not know the correct date of service for the posting, nor was he able to confirm a valid Canada Post tracking number for the mailing. The landlord provided two different series of numbers, was unsure of whether they were tracking numbers, and could not confirm whether he asked for a signature option to confirm delivery to a named person, as noted above. The landlord did not provide a copy of a printed tracking report from Canada Post. The tenant did not appear at his hearing to confirm service.

I notified the landlord that his application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed him that he could file a new application and pay a new filing fee, if he wishes to pursue this matter further. I informed him that if he was serving again by registered mail, he would be required to provide documentary proof of the registered mail and specific dates and tracking numbers in accordance with Residential Tenancy Policy Guideline 12 above.

Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following:

***6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing**
Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts*

inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Throughout the conference, the landlord interrupted me, yelled at me, and argued with me. I asked him to allow me to speak so I could answer his questions. The landlord was upset with my decision and kept repeating the same questions, asking me why his application was being dismissed. I provided the landlord with 19 minutes during the hearing in order to confirm his service information and he was still unsure of the information. After I repeatedly informed the landlord that my decision was final and repeatedly explained the above reasons for making my decision, he continued to yell at me and would not allow me to speak. I asked the landlord to confirm his contact information so that I could send him a copy of my written decision and he refused to provide it to me, as he continued to yell at me and would not allow me to speak. I thanked the landlord for attending the hearing and concluded the conference.

I caution the landlord to not engage in the same inappropriate and disruptive behaviour at any future hearings at the RTB, as this behaviour will not be tolerated, and he may be excluded from future hearings. In that event, a decision will be made in the absence of the landlord.

I notified the landlord that I could not provide him with legal advice or act as his lawyer during the hearing.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply. The remainder of the landlord'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: September 08, 2020

Residential Tenancy Branch