



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNRL, MNDCL, FFL

Introduction

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

- an order of possession for cause, pursuant to section 55;
- a monetary order for unpaid rent and for compensation for loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to recover the filing fee for this application, pursuant to section 72.

The "female landlord" and the tenant did not attend this hearing, which lasted approximately 11 minutes. The male landlord ("landlord") and the landlords' agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord did not testify at this hearing but confirmed that his daughter had permission to speak on his behalf. The landlords' agent confirmed that she had permission to represent the two landlords named in this application, who are her parents, at this hearing. The landlords' agent stated that her cousin, who knows the law, was present but she did not testify at this hearing.

The landlords' agent testified that she served the tenant with a copy of the landlords' application for dispute resolution hearing package by way of putting it in a slot on the tenant's rental unit door on August 15, 2020. When I asked her how the notice of hearing was served on August 15 when it was dated on August 17, 2020, she then claimed that it was served on August 17. The landlords' agent then checked her email and said that she had to serve the application by August 20, 2020, so it was served on August 20.

I find that the landlords did not serve the tenant with the landlords' application, as required by section 89 of the *Act*. The landlords' agent provided three different dates of service and did not know the exact date. One of the dates, August 15, 2020, was prior to the notice of hearing date of August 17, 2020. The landlords' agent was given ample time during the hearing to look up information and to provide the correct date of service.

I notified the landlords' agent that only an order of possession claim could be served by posting to the rental unit door, as per section 89(2) of the *Act*, not a monetary claim, as per section 89(1) of the *Act*.

I notified the landlords' agent that the landlords' application was dismissed with leave to reapply, except for the filing fee. I informed her that the landlords would be required to file a new application, pay a new filing fee, and provide proof of service at the next hearing, if they choose to pursue this matter further. The landlords' agent confirmed her understanding of same.

Conclusion

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

The remainder of the landlords' 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 28, 2020

Residential Tenancy Branch