



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDL-S, OPC, OPR, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent; for an Order of Possession for Cause; for a monetary Order for damage to the rental unit; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution. At the outset of the hearing the Landlord withdrew the application for an Order of Possession, as they were granted an Order of Possession at a previous dispute resolution proceeding.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit and to keep all or part of the security deposit?

Background and Evidence

When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in accordance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
 - (c) by sending a copy by registered mail to the address at which the person resides;
 - (d) by sending a copy by registered mail to a forwarding address provided by the tenant;
- or

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

The male Agent for the Landlord stated that on September 26, 2020 the Dispute Resolution Package was personally served to the female Tenant. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89(1)(a) of the *Act*, however the female Tenant did not appear at the hearing.

The Landlord submitted a Proof of Service document that declares that on September 26, 2020 the Dispute Resolution Package was served to the male Tenant by leaving a copy of it with the female Tenant. Section 89 of the *Act* does not permit service of documents by leaving them with an adult who resides with a tenant. I therefore find that the male Tenant was not served with the Dispute Resolution Package in accordance with section 89 of the *Act*.

Upon being advised that the male Tenant had not been properly served with the Application for Dispute Resolution, the Landlord opted to withdraw the Application for Dispute Resolution, with the intent of filing another Application for Dispute Resolution and properly serving it to both parties.

Analysis

I find that this Application for Dispute Resolution has been withdrawn.

Conclusion

The Application for Dispute Resolution has been withdrawn. The Landlord retains the right to file another Application for Dispute Resolution in regard to these monetary claims. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 13, 2020

Residential Tenancy Branch