



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

tenants: MNDCT, CNR, RR, RP, PSF
landlord: MNRL-S, FFL

Introduction

On September 10, 2020 the tenants applied for dispute resolution for an order cancelling the 10-Day Notice to End Tenancy Issued for Unpaid Rent or Utilities issued by the landlord (the “10-Day Notice”). They also applied for a reduction in rent, compensation for monetary loss, and other repairs/services/facilities.

On October 2, 2020 the landlord applied for a monetary order for rent not paid. Additionally, they applied for reimbursement of the application filing fee.

The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on November 3, 2020. The landlord attended the telephone conference call hearing; the tenants did not attend.

Preliminary matter – tenants’ application

The tenants did not attend the hearing, although I left the teleconference hearing connection open with the landlord until 9:57 a.m. to enable them to call in to this teleconference hearing scheduled for 9:30 a.m. I confirmed the correct call-in numbers and participant codes were provided in the notice generated when they applied. I also confirmed throughout the duration of the call that the tenants were not in attendance.

Rule 7.3 of the Rules of Procedure provides that if a party or their agent fails to attend the hearing, the arbitrator may conduct the hearing in the absence of that party or dismiss the

application without leave to reapply. On this basis, I dismiss the tenants' application for cancellation of the 10-Day Notice. The tenants do not have leave to reapply on these issues.

Preliminary Matter – landlord application

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with the notice of this hearing. This means the landlord must provide proof that the notice document was served in a verified manner allowed under section 89 of the *Act* and I must accept that evidence.

In the hearing the landlord stated they served the notice of the hearing to the tenants by attaching it to the door of the unit. This was after they printed this document. They attended to the rental unit and knew that the tenants were inside and did not want to answer the door.

The *Act* section 89 gives special rules for giving documents, for certain documents. Subsection (2) allows for a notice of hearing to be attached to the door when the landlord's application is for an order of possession, or to end the tenancy early. In this hearing, the landlord did not apply for this. Rather, they applied for a monetary order for unpaid rent – section 89(1) governs this form of notice. It does not allow the landlord to give the tenant notice of this hearing by attaching it to the door.

I am not satisfied the landlord observed the tenants actually receive notice of this hearing. The tenants did not attend to speak to this specific point. Therefore, I find the landlord did not give notice of this hearing to the tenants.

The landlord did not serve notice of this hearing in a method that is not allowed by the *Act*. The landlord's claim here is dismissed; however, the landlord has leave to reapply. By section 60(1) of the *Act*, the latest time in which the landlord may apply is within 2 years of the date that the tenancy ended.

Conclusion

In the absence of the tenants I dismiss their application in its entirety and without leave to re-apply.

For the reason outlined above regarding service of the notice of this hearing, I dismiss the landlord's application, with leave to re-apply.

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 Act*.

Dated: November 5, 2020

Residential Tenancy Branch