



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCMP LTD. PCPM LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

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

- a monetary order for damage to the rental unit and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 20 minutes. The landlords' two agents, landlord AT ("landlord") and "landlord NA" 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 confirmed that she was the resident manager and landlord NA confirmed that he was the property manager, and both had permission to represent the two landlord companies named in this application (collectively "landlords").

The landlord stated that the tenants were each served with a separate copy of the landlords' application for dispute resolution and notice of hearing on August 19, 2020, both by way of registered mail to the forwarding address provided by the tenants on the move-out condition inspection report on July 31, 2020. The landlord provided two Canada Post tracking numbers verbally during the hearing, stating that the packages were delivered on August 21, 2020. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were deemed served with the landlords' application and notice of hearing on August 24, 2020, five days after their registered mailings.

The landlord stated that the tenants were each served with a separate copy of the landlords' evidence package on November 23, 2020, both by way of Express post mail, without signatures, to the same forwarding address provided by the tenants on July 31, 2020. She claimed that she did not know whether the packages were delivered. She said that the evidence was served late because she has a busy work schedule, other duties in the building, and she had to isolate for a covid-19 issue on the week of November 16, 2020. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlords' evidence on November 28, 2020, five days after their mailings.

I notified both landlords that I could not consider their evidence package at this hearing or in my decision because it was deemed received late by the tenants, less than 14 days prior to this hearing, contrary to Rule 3.14 of the Residential Tenancy Branch *Rules of Procedure*. The landlords had ample time to submit evidence in a timely manner prior to this hearing, since the landlords' application was filed on August 14, 2020, more than 3.5 months prior to this hearing on December 4, 2020. The landlord only had to isolate due to covid-19 in mid-November 2020, within the two weeks prior to this hearing, and still had over three months to serve the evidence prior to isolation.

During the hearing, the landlords chose not to pursue their application at this hearing, based on only oral testimony, rather than written evidence. The landlords chose instead to file a new application, submit evidence, and provide notice to the tenants for the next hearing.

I notified the landlords that their application was dismissed with leave to reapply, expect for the \$100.00 filing fee. I informed them that they would be required to file a new application, pay a new filing fee, submit evidence, and serve the tenants with the evidence in a timely manner.

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: December 04, 2020

Residential Tenancy Branch