



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

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

- an early end to tenancy and an order of possession, pursuant to section 56; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 9 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she had permission to represent the landlord named in this application at this hearing.

The landlord stated that she served the landlord's application for dispute resolution hearing package to four people who are living in the rental unit now, since the tenant moved out in August 2020. She said that the tenant moved out, he blocked her phone calls and she texted him a notice of hearing. She claimed that she is entitled to serve an adult apparently residing with the tenant. She did not provide a date of service.

I find that the tenant was not served with the landlord's application, as required by section 89 of the *Act*. The landlord knew that the tenant was no longer living at the rental unit, when she served other people living there. According to the landlord, the tenant vacated in August 2020, approximately two months before the notice of hearing date, which is October 13, 2020. The landlord is not permitted to serve by text message, as per section 89 of the *Act*. The landlord is also not permitted to serve other adults in the residence, as they were not living with the tenant and this does not qualify under section 89 of the *Act*, in any event.

I notified the landlord that the landlord's application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed her that the landlord could file a new application, pay a new filing fee, and prove service at the next hearing, if the landlord wishes to pursue this matter further.

I notified the landlord that she could hire a lawyer in order to obtain legal advice, if she wished to do so. The landlord confirmed her understanding of same.

Conclusion

The landlord's application for an early end to tenancy and an order of possession is dismissed with leave to reapply.

The landlord's application to recover the \$100.00 filing fee is dismissed without 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 03, 2020

Residential Tenancy Branch