



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RP, RR, LRE, OLC, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 33;
- an order allowing the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order restricting the landlord's right to enter the rental unit, pursuant to section 70;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 30 minutes. The two tenants (male and female) and their two agents ("agent AA" and "agent BA") 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 two tenants confirmed that their two sons, who are their agents, had permission to speak on their behalf at this hearing.

The hearing began at 11:00 a.m. with me, the two tenants, their two agents, and a witness present. I notified the tenants that their witness, who was involved in a group conference call with the tenants and their agents, could not be present while the parties were testifying. They all disconnected from the hearing at approximately 11:05 a.m., and the tenants' two agents called back in at approximately 11:09 a.m., without the two

tenants present. At approximately 11:15 a.m., agent BA disconnected from the hearing and at approximately 11:17 a.m., the two tenants and agent BA called back into the hearing. The hearing ended at 11:30 a.m.

The tenants' two agents initially stated that they did not know when the landlord was served with the tenants' application for dispute resolution hearing package. They then claimed that they served the landlord in person on October 10, 2020, one day after the landlord served the tenants with an eviction notice on October 9, 2020. They claimed that they had video evidence showing agent BA serving the landlord on October 10, 2020. Later, agent BA claimed that he never said he served the landlord on October 10, 2020.

The female tenant claimed that the application was filed on October 29, 2020, so the landlord was served on November 6, 2020. Agent BA then claimed that the landlord was served on November 5, 2020, after he found the video, having searched through all of his videos during the hearing.

The notice of hearing for this application is dated November 3, 2020.

I find that the tenants did not serve the landlord with the tenants' application, as required by section 89 of the *Act*. The tenants provided different dates of service and one of the dates, October 10, 2020, was prior to the notice of hearing date of November 3, 2020. The tenants were given ample time of 30 minutes during the hearing to look up information and to provide the correct date of service.

I notified the tenants that their application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed them that they 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.

I notified the tenants that they were required to call into any future hearings on time, have working telephones with all parties and their agents present, and be ready to provide the correct service information at the beginning of the hearing.

I informed the tenants that service information was required as per section 89 of the *Act* and Residential Tenancy Policy Guideline 12. I notified them that this information was available on the Residential Tenancy Branch ("RTB") website as well as on the landlord-tenant fact sheet that they were given when they filed this application. I informed them that they confirmed attending a previous RTB hearing about one or two months prior to

this hearing date, so they are aware of how the RTB hearing process and service information works.

Conclusion

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

The remainder of the tenants' 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: January 19, 2021

Residential Tenancy Branch