

DECISION

Dispute Codes:

CNR, CNC-MT, OLC, LAT, LRE, MNDCT, AAT, OT, MNRT

Introduction

This hearing was convened in response to two Applications for Dispute Resolution filed by the Tenant.

The Tenant filed one Application for Dispute Resolution in which she applied to cancel a One Month Notice to End Tenancy for Cause and for more time to apply to cancel the One Month Notice to End Tenancy for Cause.

The Tenant stated that this Application for Dispute Resolution was posted on the Agent for the Landlord's door on December 15, 2020. The Agent for the Landlord is the individual with the initials AB who is identified as one of the Respondents on the second Application for Dispute Resolution filed by the Tenant.

The Tenant filed a second Application for Dispute Resolution, in which the Tenant applied to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities; for an Order requiring the Landlord to comply with the tenancy agreement and/or the *Residential Tenancy Act (Act)*; for a monetary Order for money owed or compensation for damage or loss; for an Order authorizing the Tenant to change the locks to the rental unit; for an Order setting conditions on the Landlord's right to enter the rental unit; for an Order requiring the Landlord to provide access to the unit; and for "other".

The Tenant stated that the second Application for Dispute Resolution was posted on the Agent for the Landlord's door on December 18, 2020.

At the outset of the hearing the Tenant stated that she is no longer living at the rental unit and she would like to withdraw her application to cancel a One Month Notice to End Tenancy for Cause, to cancel a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, for an Order requiring the Landlord to comply with the tenancy agreement and/or the *Act*, for an Order authorizing the Tenant to change the locks to the rental unit; for an Order setting conditions on the Landlord's right to enter the rental unit; and for an Order requiring the Landlord to provide access. The Tenant confirmed that the only issue remaining in dispute at these proceedings is her application for a monetary Order.

Issue(s) to be Decided

Is the Tenant entitled to financial compensation?

Background and Evidence

This hearing proceeded in the absence of the Landlord. For reasons outlined in my analysis, the testimony provided by the Tenant and her witness is not summarized here.

Analysis

Section 89(1) of the *Act* stipulates that an Applicant must serve a Respondent with their Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, 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) of the *Act*.

Section 89(2) of the *Act* stipulates that an Application for Dispute Resolution filled by a landlord under sections 55, 56, or 56.1 of the *Act* must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides; or
- (e) as ordered by the director under section 71(1) of the *Act*.

Although section 89(2) of the *Act* authorizes an Applicant to serve an Application for Dispute Resolution documents by posting it on a Respondent's door, section 89(1) of the *Act* does not authorize a party to serve an Application for Dispute Resolution in that manner. In these circumstances, the Tenant was obligated to serve the Landlord with both of Applications for Dispute Resolution in accordance with section 89(1) of the *Act*.

On the basis of the Tenant's testimony that she served both of her Applications for Dispute Resolution by posting them on the Agent for the Landlord's door, I find that neither of the Tenant's Applications for Dispute Resolution were served to the Landlord in accordance with section 89(1) of the *Act*.

As the Tenant did not serve the Applications for Dispute Resolution in accordance with section 89(1) of the *Act* and the Landlord was not represented at the hearing, I should not have proceeded with the hearing in the absence of the Landlord. I proceeded with the hearing in the absence of the Landlord because I mistakenly concluded that the Applications for Dispute Resolution had been properly served to the Landlord.

As the Applications for Dispute Resolution were not properly served to the Landlord, I am not considering any of the testimony provided by the Tenant and I am dismissing both of her Applications for Dispute Resolution, with leave to reapply.

Conclusion

Both of the Tenant's Applications for Dispute Resolution are 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: February 12, 2021

Residential Tenancy Branch