



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WING LEE HOLDINGS LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR-PP, OPRM-DR, FFL

Introduction

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

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants (male and female) did not attend this hearing, which lasted approximately 10 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 he was a building manager and he had permission to represent the landlord company named in this application at this hearing.

At the outset of the hearing, the landlord stated that the tenants abandoned the rental unit. He said that he received a text message from the male tenant on January 28, 2021, that the tenants had vacated the rental unit. He stated that the landlord changed the locks and took back possession of the rental unit. He confirmed that the landlord did not require an order of possession. I notified him that the landlord's application for an order of possession was dismissed without leave to reapply.

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. The direct request proceeding is based on the landlord's paper application only, not any submissions from the tenants. An "interim decision," dated January 22, 2021, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenants with copies of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself.

The landlord said that he served the above documents to the tenants on January 26, 2021, by way leaving a copy in the mailbox at the rental unit.

Accordingly, I find that the tenants were not served with the interim decision, notice of reconvened hearing and all other required documents, as per section 89 of the *Act*.

I notified the landlord that leaving a copy in a mailbox is not a permitted method of service, under section 89 of the *Act*. I informed the landlord that if the tenants were deemed to have received the above documents on January 29, 2021, three days after it was left in the rental unit mailbox as per section 90(d) of the *Act*, the tenants had already vacated the rental unit prior to that date, on January 28, 2021.

I notified the landlord that the landlord's monetary application for unpaid rent was dismissed with leave to reapply. I informed him that the landlord's application to recover the \$100.00 filing fee was dismissed without leave to reapply. I notified him that the landlord may file a new application, pay another filing fee and provide proof of service at the next hearing, if the landlord chooses to pursue this matter further.

Conclusion

The landlord's application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent 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: February 22, 2021

Residential Tenancy Branch