



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, OPL

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (Act).

The landlords originally applied for an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act. The Residential Tenancy Branch (RTB) records show that the landlords were informed on November 16, 2020, that their application's details show they did not qualify for that expedited hearing. Further, the landlords were informed they should amend their application to request an order of possession of the rental unit pursuant to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued to the tenant. The tenants amended or attempted to amend their application for the recommended change, on November 18 and 24, 2020.

The hearing proceeded on the landlords' request for enforcement of their Two Month Notice.

The landlord JD and their interpreter/assistant attended the hearing; however, the tenant did not attend. As a result, service of the hearing documents was then considered.

The landlord stated the tenant was served with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by attaching it to the tenant's door on November 13, 2020. I did not accept this evidence, as the Residential Tenancy Branch (RTB) records show that the initial Notice was not provided to the landlords until November 16, 2021.

Additionally, the landlords filed an amended application, which they said was served on the tenant on November 18, 2020. As the amended application was not made by the landlords until November 24, 2020, I found this evidence inconsistent.

Additionally, the landlords filed a photograph showing a large, brown envelope addressed to the tenant and showing the registered mail documents attached. The landlord confirmed that the address used was their address, as the tenant lives in the basement suite. The landlord and her interpreter could not provide clear evidence of when this envelope was delivered to the tenant or if the tenant tried to collect the envelope. The landlord confirmed that the tenant does not receive any other mail at the rental unit address and they do not know where her regular mail is sent. I found this evidence inconsistent, as they knew the tenant did not receive mail at the address used.

Nonetheless, and despite the conflicting evidence, I allowed testimony from the landlord and her interpreter/assistant regarding the service and the merits of the Notice. The landlord filed a photograph of the first page of the Notice.

At the conclusion of the hearing, I informed the landlord that I could not grant them an order of possession of the rental unit unless I was able to review a full copy of the Notice. The landlord filed into evidence a copy of only the first page of the 4 page document.

I informed the landlord that I would allow her to submit into evidence a full copy of the 4 page Notice. The landlord confirmed that she would upload the document into the RTB evidence portal by 1:00 p.m., the day of the hearing.

I informed the landlord and her interpreter that if the Notice was not uploaded by the deadline, the landlords' application would be dismissed. The landlord and her interpreter acknowledged their understanding of the requirement and the consequence of not complying with it.

The Notice was not uploaded by 1:00 p.m., and the RTB communication records show that the landlord or representative called and said they were not comfortable uploading the document. Instead, they chose to send by email, an option provided by staff at the RTB.

I note that the landlord was informed specifically that I could not accept email. It is unknown if the landlord has emailed the document; however, as of the time of writing this Decision, it had not been received.

Analysis and Conclusion

As the landlords/applicants have not submitted a full copy of the Notice, I was unable to determine whether the Notice was in the proper form with content meeting the statutory requirements under section 52 the Act.

I therefore did not grant the landlords an order of possession of the rental unit under section 55(2) of the Act.

As a result, I dismiss the landlords' application for dispute resolution, 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 2, 2021

Residential Tenancy Branch