



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, 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 tenant did not attend this hearing, which lasted approximately 17 minutes. The two landlords and their agent 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 landlords confirmed that their agent had permission to speak on their behalf.

The landlords' agent stated that the tenant was served with the landlords' application for dispute resolution hearing package on January 8, 2021, by way of registered mail. When I asked the landlords' agent how the application was served on January 8, 2021, when the notice of hearing for this application is dated January 11, 2021, she stated that she had to go through her emails and paperwork to find another date.

The landlords' agent was given ample time of 17 minutes during the hearing in order to look up information and to provide the correct date of service. She was unable to provide the correct date of service.

I find that the landlords did not serve the tenant with the landlords' application, as required by section 89 of the *Act*. The landlords' agent provided a date of January 8, 2021, which is prior to the notice of hearing date of January 11, 2021.

I notified the landlords and their agent that the landlords' application was dismissed with leave to reapply, except for the order of possession and the \$100.00 filing fee. The landlords' agent confirmed that an order of possession was not required because the tenant was removed from the rental unit by a bailiff on February 22, 2021, pursuant to an order of possession granted at a previous hearing on January 29, 2021.

I informed the landlords and their agent that they could 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 them that since the tenant had vacated the rental unit, they would have to provide proper proof of service of any future applications against the tenant. They confirmed their understanding of same.

During the hearing, I answered many questions from the landlords and their agent, regarding my decision about service of their application. I informed the landlords' agent that I could not provide legal advice to her. In response to her question, I notified her that bailiff fees and other costs were not part of the landlords' application at this hearing. The landlords' agent stated that she might apply for these costs in the future.

The landlords' agent asked for my full name during the hearing. I notified her that Arbitrators were not required to provide their first name for confidentiality reasons. I informed her of my last name again, as I already provided it at the beginning of this hearing. I informed her that my name would also be on a copy of the written decision that would be sent to both parties after the hearing was over. She confirmed her understanding of same.

Conclusion

The landlords' application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply. The landlords' 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: April 06, 2021

Residential Tenancy Branch