



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL, ET**

Introduction

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

- an early termination of tenancy and Order of Possession, pursuant to section 56; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The landlord testified that they are not recording this dispute resolution hearing.

The landlord testified that this application for dispute resolution was posted on the tenant's door on March 31, 2021. A witnessed proof of service document stating same was entered into evidence. I find that the tenant was served with the landlord's application for dispute resolution in accordance with section 89 of the *Act*.

The landlord testified that the tenant abandoned the subject rental property. Based on the landlord's undisputed testimony, I find that this tenancy has ended. As this tenancy

has ended, the issues raised in the application are no longer applicable. The landlord's application is therefore dismissed without leave to reapply.

In the hearing the landlord asked to amend her application for dispute resolution seeking monetary compensation for unpaid rent and physical damages to the subject rental property.

Section 4.2 of the Rules states that in circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

I find that the tenant could not reasonably have anticipated that the nature of the landlord's application would fundamentally change at the hearing. This hearing concerned the landlord's application to end a tenancy early, which has already occurred. As this tenancy has already ended it is not surprising that the tenant did not attend. I find that the tenant would be unduly prejudiced by amending this claim beyond the scope of the original application.

I informed the landlord in the hearing that I would not amend this application for dispute resolution and that the landlord was permitted to file a monetary claim for damages against the tenant.

The landlord testified that the tenant did not provide a forwarding address. I advised the landlord that she could file an application for substituted service. The landlord may also hire a skip tracer to locate the tenant.

Conclusion

The landlord's application for dispute resolution is dismissed without 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 16, 2021

Residential Tenancy Branch