



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC, PSF

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- cancellation of the One Month Notice to End Tenancy for Cause (the Notice), pursuant to section 47;
- an order for the landlord to comply with the Act, the Residential Tenancy Regulation (the Regulation) and/or tenancy agreement, under section 62; and
- an order requiring the landlord to provide services or facilities as required by the tenancy agreement or the Act, pursuant to section 62.

Both parties attended the hearing. The landlord was assisted by advocate TV. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

At the outset of the hearing both parties affirmed they understand it is prohibited to record this hearing and that when one person is speaking, the other can not interrupt.

Preliminary Issue – Service

The landlord confirmed receipt of the tenant's notice of hearing and evidence (the materials) on or about January 29, 2021. Based on the landlord's testimony, I find the tenant served the materials in accordance with section 89 of the Act.

The tenant affirmed she served an amendment by registered mail on April 06, 2021 (the tracking number is on the cover page of this decision).

Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail the landlord is deemed to have received the amendment on April 11, 2021, in accordance with section 90 (a) of the Act.

Rule of Procedure 4.6 states:

4.6 Serving an Amendment to an Application for Dispute Resolution

As soon as possible, copies of the Amendment to an Application for Dispute Resolution form and supporting evidence must be produced and served upon each respondent by the applicant in a manner required by section 89 of the Residential Tenancy Act or section 82 of the Manufactured Home Park Tenancy Act and these Rules of Procedure.

The applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Amendment to an Application for Dispute Resolution form and supporting evidence as required by the Act and these Rules of Procedure.

In any event, a copy of the amended application and supporting evidence should be served on the respondents as soon as possible and must be received by the respondent(s) not less than 14 days before the hearing.

I find the landlord was not served with the amendment in accordance with Rule of Procedure 4.6, as the landlord was served the amendment less than 14 days before the hearing. Thus, the tenant's amendment is not accepted.

Preliminary Issue – Correction of the Landlord's Name

At the outset of the hearing landlord LI corrected the spelling of her last name. Pursuant to section 64(3)(a) of the Act, I have amended the tenant's application .

Preliminary Issue – Vacant Rental Unit

At the outset of the hearing both parties agreed the tenant vacated the rental unit on February 28, 2021.

The tenant's application for cancellation of the Notice, an order requiring the landlord to comply with the Act and an order requiring the landlord to provide services or facilities is moot since the tenancy has ended and the tenant left the rental unit.

Section 62(4)(b) of the Act states an application should be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. I exercise my authority under section 62(4)(b) of the Act to dismiss the tenant's application.

Both parties confirmed during the hearing they may be served tenancy documents by email (the email addresses are on the cover page of this decision), in accordance with Regulation 43.

Conclusion

I dismiss the application 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 21, 2021

Residential Tenancy Branch