



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, DRI, OLC, FFT

Introduction

This hearing was scheduled to deal with a tenant's application to cancel a One Month Notice to End Tenancy for Cause ("1 Month Notice") dated February 26, 2021; orders for the landlords to comply with the Act, regulations, or tenancy agreement; and, to recover an unlawful rent increase.

The tenant and her advocate appeared for the hearing and the tenant was affirmed; however, there was no appearance on part of the landlords.

Since the landlords did not appear, I explored service of hearing materials upon the landlords.

The tenant testified that she had a friend send a hearing package to each landlord as the tenant was out of the country at the time. Her friend chose to use a courier service. Receipts for the courier service were submitted into evidence and were dated March 16, 2021.

Where a respondent does not appear at the hearing, the applicant bears the burden to prove the respondent was served in accordance with section 89 of the Act. Section 89 of the Act does not permit service by courier and the tenant did not have a Substituted Service Order permitting service by courier. Since the landlords did not appear at the hearing to confirm receipt of the couriered packages, I was not prepared to deem the landlords sufficiently served.

Having been unsatisfied the landlords were duly served, I explored dismissal of this application with or without leave.

The tenant stated that after the 1 Month Notice was served upon her, she and the landlords entered into a new tenancy agreement that commenced on March 1, 2021 and the landlord's representative sent her an email stating the 1 Month Notice was cancelled. Further, the property was sold to new owners starting June 1, 2021 and the new owners have indicated they are not seeking to evict the tenant. As such, I was of the view the tenant's request for cancellation of the 1 Month Notice dated February 26, 2021 is moot.

Having heard the property has since sold to new owners, I find the tenant's request for orders for compliance against the former landlords named in this application to be moot.

The tenant stated she does not wish to have leave to reapply for recovery of the unlawful rent increase and was agreeable to this claim being dismissed without leave to reapply.

In light of the above, I dismiss the tenant's 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: June 17, 2021

Residential Tenancy Branch