



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM Ltd. and Countess Gardens
Inc. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Tenant: CNR, OLC
Landlord: OPR-DR, MNR-DR, FFL

Introduction

This was a cross application hearing that dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the 10 Day Notice to End Tenancy, pursuant to section 46; and
- an Order for the landlord to comply with the *Act*, regulation, and/or the tenancy agreement, pursuant to section 62.

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

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55;
- a Monetary Order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

The tenant confirmed his email address for service of this decision.

Preliminary Issue- Amendment

The tenant testified that he named an ex-employee of the landlord as the landlord in this application for dispute resolution. The tenant testified that the name of the landlord and the landlord's agent is on the tenancy agreement, which was entered into evidence by the landlord. Pursuant to section 64 of the *Act*, I amend the tenant's application to state the name of the landlord and the landlord's agent as stated on the tenancy agreement and the landlords' application for dispute resolution.

The tenancy agreement entered into evidence states that the landlord's agent is a limited company; however, this designation is not included on the landlord's application for dispute resolution. In this instance I rely on the tenancy agreement and pursuant to section 64 of the *Act*, I amend the landlords' application to include the Ltd after the name of the landlord's agent.

Preliminary Issues- Attendance

The landlords did not attend this hearing, although I left the teleconference hearing connection open until 11:11 a.m. in order to enable the landlords to call into this teleconference hearing scheduled for 11:00 a.m. The tenant 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 tenant and I were the only ones who had called into this teleconference.

Rule 7.1 of the Residential Tenancy Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. Rule 7.3 states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Based on the above, in the absence of any submissions from the landlords I order the landlords' application dismissed without liberty to reapply.

Preliminary Issues- Service

The tenant testified that he did not serve his application for dispute resolution on the landlords.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

I find that the tenant did not serve the landlords in a manner required by section 89(1) of the *Act*. At the hearing, I advised the tenant that I was dismissing his application with leave to reapply.

Conclusion

The landlords' application is dismissed without leave to reapply.

The tenant's application 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: August 17, 2021

Residential Tenancy Branch