



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNDL -S, FFL

Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession for cause and a Monetary Order for damage to the rental unit or residential property.

Only the landlord appeared for the hearing. The landlord was affirmed and ordered to not make an unofficial audio recording of the proceeding.

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

The landlord stated that she sent the proceeding package and evidence available at the time of filing to the tenant via email, to an email address the tenant gave to the landlord for sending documents, on April 29, 2021. The tenant did not respond to the emails so the landlord also sent the package to the tenant via registered mail on May 24, 2021. The registered mail package was delivered to the landlord as the landlord and tenant resided at the same property (but in different units). The landlord testified that she placed the registered mail package in front of the tenant's entrance door and on the following day the package was gone.

On June 8, 2021 a Writ of Possession was executed by the bailiff and the tenant was removed from the property due to unpaid rent (file number provided on cover page of this decision). As such, the landlord no longer requires an Order of Possession by way of this application and I do not provide one.

The landlord confirmed that the outstanding issue is her monetary claim. In July 2021, the landlord prepared a Monetary Order worksheet and gathered additional evidence in an attempt to increase her monetary claim. The landlord sent the Monetary Order

worksheet and additional evidence to the tenant via email on August 10, 2021. The tenant did not respond to the emails.

The landlord confirmed that she did not submit or serve an Amendment to an Application for Dispute Resolution.

I informed the landlord that she had not properly amended her claim in accordance with the Rules of Procedure in the absence of an Amendment given at least 14 clear days before the hearing. Where documents are emailed, they are deemed to be received three days later, unless there is evidence to the contrary. As such, an Amendment and the Monetary Order worksheet and additional evidence would have to have been sent to the tenant via email no later than August 6, 2021 for an August 24, 2021 hearing.

I informed the landlord that I was prepared to proceed to hear her monetary claim for damage, as originally filed but I would not consider amending the claim at the hearing in the absence of the tenant and an improper attempt to amend the claim. The landlord requested withdrawal of her monetary claim, with the right to reapply for all of her losses. Since the tenant did not respond to any of the claims or appear for the hearing, I was of the view the request was non-prejudicial and I granted the landlord's request.

Conclusion

The landlord's monetary claim 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 25, 2021

Residential Tenancy Branch