



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

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

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 12 minutes. The landlords' agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 9:30 a.m. and ended at 9:42 a.m. I confirmed that the correct call-in numbers and participant codes were provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

At the outset of this hearing, I informed the landlord that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch *Rules of Procedure*. The landlord affirmed, under oath, that he would not record this hearing.

I explained the hearing process to the landlord. He had an opportunity to ask questions. He did not make any adjournment or accommodation requests.

At the outset of this hearing, the landlord confirmed that the tenant moved out of the rental unit when the property was sold to new owners on June 1, 2021. He confirmed that he did not require an order of possession, just a monetary order for unpaid rent.

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. The direct request proceeding is based on the landlords' paper application only, not any submissions from the tenant. An "interim decision," dated May 5, 2021, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlords were required to serve the tenant with a copy of the interim decision, the notice of reconvened hearing and all other required documents, within three days of receiving it, as outlined in the interim decision itself.

The landlord said that he received the interim decision on May 5, 2021. He claimed that he thought he sent the interim decision by registered mail to the tenants on May 13, 2021. He stated that he found a registered mail receipt, but he did not know the date of the receipt or if that was the correct receipt. He maintained that he did not know whether that receipt was for service of the landlords' amendment for this application or for the interim decision. He then claimed that he served the tenant on April 8, 2021. I notified him that was the date that the landlords filed the original direct request application. He explained that he had a "one-inch thick file" in front of him so he needed time to go through it. The landlord was provided 12 minutes during this hearing to locate service information, from 9:30 a.m. to 9:42 a.m., but he was unable to find same.

Accordingly, I find that the tenant was not served with the interim decision, notice of reconvened hearing and all other required documents, as per section 89 of the *Act*. The landlord did not confirm a date or a Canada Post registered mail tracking number for service. The landlords did not provide a Canada Post receipt, tracking number or tracking report with their application evidence for this hearing. The tenant did not attend this hearing to confirm service.

I notified the landlord that the landlords' application was dismissed with leave to reapply, except for the order of possession and the filing fee. I informed him that the landlords can file a new application, pay a new filing fee and provide proof of service at the next hearing, if the landlords want to pursue this matter in the future.

The landlord was upset with my verbal decision. He argued that he had a thick file to go through and he could not find the mail receipt. He said that he did not know that I was going to ask him any questions about service at this hearing.

I informed the landlord that I provided him with ample time during this hearing to locate service information and that I had made my decision. I thanked the landlord for attending and closed the hearing.

Conclusion

The landlords' application for an order of possession and to recover the \$100.00 filing fee is dismissed without leave to reapply.

The landlords' application for a monetary order for unpaid rent 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: September 02, 2021

Residential Tenancy Branch