



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Narod Properties Corp
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **CNC**
MNR-DR, OPR-DR, FFL

Introduction

The words tenant and landlord in this decision have the same meaning as in the *Residential Tenancy Act*, (the "Act") and the singular of these words includes the plural.

This hearing dealt with applications filed by both the tenant and the landlord pursuant to the *Act*.

The tenant applied for:

- An order to cancel a One Month Notice To End Tenancy for Cause pursuant to sections 47 and 55.

The landlord applied for:

- A monetary order for unpaid rent by direct request, pursuant to section 67;
- An Order of Possession for unpaid Rent by direct request, pursuant to sections 46 and 55; and
- Authorization to recover the filing fee for this application from the opposing party pursuant to section 72.

None of the tenants attended the hearing, although I left the teleconference hearing connection open until 11:11 a.m. to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. 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 landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing represented by property manager, JN ("landlord"). The landlord testified that he had not been served with a copy of the tenants' Application for Dispute Resolution. The only reason he attended today was because a

former employee advised him that she received a reminder about the hearing in her email.

With respect to the landlord's own application, the landlord acknowledged he received a Notice of Dispute Resolution Proceedings ("notice") from the Residential Tenancy Branch on July 22, 2021 and he did not serve any of the tenants with a copy of it. The landlord testified that he could not serve any of the tenants with a copy of the notice because he could not locate any of them.

The landlord testified that the tenants abandoned the rental unit some time before July 27, 2021. The rental unit subject to this hearing is now occupied by new tenants.

Analysis

The tenants did not attend the hearing which was scheduled by conference call at 11:00 a.m.

Rule 7.3 of the Rules of Procedure provides 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.

Consequently I dismiss the tenants' application without leave to reapply.

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]...*

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure states:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the *Act* and these Rules of Procedure.

The landlord acknowledged that he did not serve any of the tenants with the Notice of Dispute Resolution Proceedings package as required by section 89 of the *Act*. Accordingly, I dismiss the landlord's application seeking a monetary order for unpaid rent with leave to reapply.

The landlord's application seeking an order of possession is dismissed without leave to reapply as I declare the tenancy ended pursuant to section 44(1)(d), when the tenants vacated the rental unit.

The landlord's request to recover the filing fee is dismissed without leave to reapply.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's application seeking a monetary order for unpaid rent is dismissed with leave to reapply.

The remainder of the landlord's application is dismissed 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: October 21, 2021

Residential Tenancy Branch