



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Introduction

This hearing was convened as a result of the Landlord's two Applications for Dispute Resolution ("Applications") under the *Residential Tenancy Act* ("Act"), for an Order of Possession for Cause, based on a One Month Notice to End Tenancy for Cause dated August 1, 2021 ("One Month Notice"); for a monetary order for damages of \$675.00; for a monetary order for unpaid rent of \$1,350.00, retaining the security deposit to apply to these claims; for an order of possession for a Tenant's Notice to End the Tenancy; for an order of possession for unpaid rent, further to having served a 10 Day Notice dated October 6, 2021; with a request for a monetary order of \$1,350.00 for outstanding unpaid rent from the Tenant; and to recover the \$100.00 cost of his second Application filing fee.

The Landlord and the Tenant appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about it. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

The Tenant did not submit any evidence to the RTB regarding either of the Landlord's Applications. Further, the Tenant said that he had not received any evidence from the Landlord. He said received a Notice of Hearing form, only, for the first Application, but not for the second Application. The Landlord said that he served these documents and his evidence by registered mail sent on September 15, 2021. The Landlord submitted a Canada Post tracking number as evidence of this service. When I used the tracking number in the Canada Post site, it indicated that a notice had been left at the rental unit on September 15, 2021, but that it had not been picked up, and it was being returned to the sender.

I asked the Tenant about having received the notice card for the registered mail package and he said that he has no access to the mail at the residential property. The Landlord explained that he provides the Tenant with mail when it arrives by putting it on the Tenant's door. The Tenant said that mail can go missing this way and that he did not receive a registered mail notice card. The Landlord did not recall if he had seen the notice card for the registered mail in the mail that he delivered to the Tenant.

In the hearing, the Landlord said he has a lot on his plate, as he is working two, sometimes three jobs to manage his bills. I find it more likely than not that these busy responsibilities contributed to what I find to be the Landlord's failure to properly serve the Tenant with the second Application or his evidentiary submissions for either Application. Accordingly, and pursuant to section 62 of the Act, I dismiss the Landlord's second Application for failure to properly serve the Tenant with the Notice of Hearing and evidentiary submissions. Further, I will not consider the Landlord's evidentiary submissions in the first Application, since this evidence was not properly served to the Tenant.

The Landlord's first Application was based on a One Month Notice to End Tenancy for Cause dated August 1, 2021. However, the only ground checked on this eviction notice was that the Tenant no longer qualified for subsidized rent. However, there is no evidence before me that the Tenant's rent is subsidized. Accordingly, I find that this claim in the first Application is without merit and I dismiss it without leave to reapply.

The Landlord's first Application was also based on a Tenant's Notice to End the Tenancy. However, the Landlord did not direct me to such a Notice in his evidentiary submissions, which I cannot consider, anyway, since the Landlord failed to serve them properly to the Tenant.

The Landlord's other claims on the first Application were severed from the proceeding, pursuant to Rule 2.3, given the limited time available in the hearing. As such, the Landlord's remaining claims in the first Application are dismissed with leave to reapply.

As the Landlord was unsuccessful in his Applications, I decline to award him with recovery of the \$100.00 Application filing fee.

Conclusion

The Landlord is unsuccessful in his Applications, as he failed to serve the Tenant with

his second Notice of Hearing documents, and his evidentiary submissions for either Application. Further, the Landlord failed to indicate a valid ground for having served a One Month Notice to the Tenant. In addition, as I could not consider the Landlord's evidence, there were no notices, agreements or other documents that could establish the validity of the One Month Notice, the 10 Day Notice, or the alleged Tenant's Notice to End the Tenancy.

The Landlord's claims for an order of possession in the first Application are dismissed without leave to reapply, pursuant to section 62 of the Act. The Landlord's claims in the first Application for monetary compensation for damages and unpaid rent are dismissed with leave to reapply. The Landlord's second Application is dismissed without leave to reapply.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: January 12, 2022

Residential Tenancy Branch