



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 with the landlord's 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 of \$1,350.00, pursuant to section 67; and
- authorization to recover the \$100.00 filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 10 minutes. The 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 11:00 a.m. and ended at 11:10 a.m. I monitored the teleconference line throughout this hearing. 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 people who called into this teleconference.

The landlord confirmed her name and spelling. She confirmed the rental unit address. She provided her email address for me to send a copy of my decision to her after 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 ("RTB") *Rules of Procedure* ("Rules"). The landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord. I informed her that I could not provide legal advice to her. She had an opportunity to ask questions, which I answered. She did not make any adjournment or accommodation requests.

At the outset of this hearing, the landlord stated that the tenants vacated the rental unit, and she took back possession and changed the locks on March 24, 2022. I informed the landlord that her application for an order of possession was dismissed without leave to reapply.

Preliminary Issue – Service of Landlord’s Application

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. The direct request proceeding is based on the landlord’s paper application only, not any submissions from the tenants. An “interim decision,” dated February 28, 2022, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing. A notice of reconvened hearing, dated March 2, 2022, was also issued.

The landlord was required to serve the two tenants 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 stated that she served the two tenants with the above documents by registered mail. She said that she did not recall the exact date, but it was sometime in March 2022. She claimed that she did not have the registered mail tracking numbers in front of her during this hearing, because she was at work.

I find that the landlord did not serve the two tenants with the interim decision or notice of reconvened hearing, as required by section 89 of the *Act* and Rule 3.1 of the *RTB Rules*. The landlord did not provide a service date or registered mail tracking numbers to confirm service, during this hearing. The two tenants did not attend this hearing to confirm service of the above documents.

The landlord was given ample time of 10 minutes during this hearing in order to provide evidence regarding service.

The landlord originally filed the direct request application on January 26, 2022. The interim decision is dated February 28, 2022, and the notice of reconvened hearing is dated March 2, 2022. This hearing occurred on March 29, 2022.

The landlord had ample time from March 2, 2022 to March 29, 2022, to provide the above information and documentation regarding service of the interim decision and notice of hearing.

I notified the landlord that her application for a monetary order for unpaid rent was dismissed with leave to reapply. I informed her that her application to recover the \$100.00 filing fee was dismissed without leave to reapply. I notified her that she was at liberty to file a new application and pay a new filing fee, if she wants to pursue this matter in the future. She confirmed her understanding of same.

Conclusion

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

The landlord's application for a monetary order for unpaid rent of \$1,350.00 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: March 29, 2022

Residential Tenancy Branch