



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR-PP, 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; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The three tenants did not attend this hearing, which lasted approximately 21 minutes. The landlord, the landlord's two agents ("landlord SOT" and "landlord FN"), and "landlord FN's assistant" attended the hearing and were each 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 9:51 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 above hearing participants and I were the only people who called into this teleconference.

All hearing participants confirmed their names and spelling. The landlord stated that he owns the rental unit. He confirmed the rental unit address. He provided his email address for me to send a copy of my decision to him after this hearing.

The landlord stated that his brother, landlord ST, and landlord FN both had permission to represent him at this hearing. Landlord FN stated that her son was assisting her with English language translation and computer technology at this hearing, but he did not testify.

I informed all hearing participants 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*”). All hearing participants affirmed, under oath, that they would not record this hearing.

I explained the hearing process to all hearing participants. They had an opportunity to ask questions, which I answered. They did not make any adjournment or accommodation requests.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord’s application to correct the spelling of the landlord’s surname. The landlord consented to this amendment during this hearing. I find no prejudice to the tenants in making this amendment.

Preliminary Issue – Service of Landlord’s Application

The landlord and his agents were given extra and ample time of 21 minutes to provide evidence regarding service at this hearing. Landlord FN stated that she was searching through her documents online on the computer with her son, during this hearing. She said that she had a lot of paperwork to look through because the landlord had multiple files with these tenants.

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 December 8, 2021, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the three 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.

Landlord FN stated that she did not serve the above documents to the three tenants. The landlord did not provide any documentary evidence regarding service of the above documents, with this application.

I find that the landlord did not serve the three tenants with the interim decision or notice of hearing, as required by section 89 of the *Act* and Rule 3.1 of the RTB *Rules*.

Landlord FN stated that she did not serve the three tenants with the above documents.

The landlord did not provide a service date, method of service, or documentary proof of service. The three tenants did not attend this hearing to confirm service of the above documents.

The landlord and his agents were given ample time of 21 minutes during this hearing in order to look up information and to provide evidence regarding service.

The landlord originally filed the direct request application on August 30, 2021. The interim decision and notice of hearing are dated December 8, 2021. This hearing occurred on March 24, 2022. The landlord had ample time of over 3.5 months from December 8, 2021 to March 24, 2022, to provide the above information and documentation regarding service of the interim decision and notice of hearing.

I notified the landlord and his agents that the landlord's application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed them that the landlord could file a new application and pay a new filing fee, if the landlord wants to pursue this matter in the future. They confirmed their understanding of same.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application 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 24, 2022

Residential Tenancy Branch