



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M-MT, FFT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenants applied for:

- Cancellation of a Four Month Notice to End Tenancy for Demolition or Conversion of a Rental Unit (the Notice), pursuant to section 49;
- an extension of the timeline for disputing the Notice, pursuant to section 66; and
- an authorization to recover the filing fee for this application, under section 72.

I left the teleconference connection open until 9:44 A.M. to enable the landlord to call into this teleconference hearing scheduled for 9:30 A.M. The landlord did not attend the hearing. Tenant SH and advocate GC attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 tenant, her advocate and I were the only ones who had called into this teleconference.

At the outset of the hearing the attending parties affirmed they understand it is prohibited to record this hearing.

Per section 95(3) of the Act, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

The notice of hearing is dated October 21, 2021. Advocate GC affirmed tenant SH served the notice of hearing in person in early November 2021. Tenant SH affirmed she served the notice of hearing in person at the end of October 2021. Later advocate GC affirmed tenant SH served the notice of hearing when she paid November 2021 rent.

Residential Tenancy Branch Policy Guideline 12 states:

The decision whether to make an order that a document has been sufficiently served in accordance with the Legislation or that a document not served in accordance with the Legislation is sufficiently given or served for the purposes of the Legislation is a decision for the arbitrator to make on the basis of all the evidence before them.

I find the testimony offered by tenant SH and advocate GC was vague and contradictory. The tenant did not inform the specific date of service of the notice of hearing. I find the tenant did not serve the notice of hearing.

The tenant affirmed she moved out on February 15, 2022 because of an order of possession dated February 01, 2022. The order of possession was issued because of a ten day notice to end tenancy for unpaid rent dated December 01, 2021 (the previous file number is recorded on the cover page of this decision). The tenant's application is moot, as the tenancy has ended.

Based on the foregoing, I dismiss the tenant's application without leave to reapply.

As the tenant did not serve the notice of hearing, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the application 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: March 02, 2022

Residential Tenancy Branch