



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPU-DR, MNU-DR, FFL**

Introduction

On March 24, 2022, an Adjudicator appointed pursuant to the *Residential Tenancy Act* (the *Act*) adjourned the landlord's application for dispute resolution to a participatory hearing. She did so on the basis of an *ex parte* hearing using the Residential Tenancy Branch's direct request process. The adjudicator adjourned the direct request for the following reasons:

I find that landlords have not provided the last page of the residential tenancy agreement where the signatures of the landlords and the tenant should appear. As a signed tenancy agreement is a requirement of the direct request process, I find that a participatory hearing is necessary in order to protect the procedural rights of the tenant.

The residential tenancy agreement submitted by the landlords has no date indicating the day in the month on which the rent is due, which is necessary in order to determine the validity of the 10 Day Notice.

I have been delegated authority under the *Act* to consider the landlord's application for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection throughout the hearing which commenced at 1:30 p.m. and ended at 2:00 p.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.

Preliminary Issue – tenant vacated the rental unit

The landlord AA attended the hearing and gave the following testimony. The tenant emailed and texted the landlord advising the landlord that she would be vacating the rental unit. A screen shot of a text sent by the tenant, dated Thursday, March 10th at 9:19 a.m. indicates the tenant's movers will attend to move her out on Saturday, March 12th and asks that the landlord meet her on Sunday, March 13th at 11:00 a.m. to get the keys and "some cash". Based on the foregoing, I find the tenant accepted the validity of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent/Utilities and the tenancy ended on March 13th, pursuant to section 44(1)(a)(ii).

The landlord testified that the tenant left behind some of her belongings at the end of the tenancy and that the landlord has stored the tenant's belongings and posted a legal notice to the tenant to retrieve them in the local newspaper. The landlord has since re-rented the rental unit and the landlord confirmed she no longer requires an Order of Possession. Consequently, I dismiss the landlord's application seeking an Order of Possession pursuant to section 62(4) of the *Residential Tenancy Act*.

Preliminary Issue – service of notice of reconvened hearing

The landlord testified that on March 24, 2022, she sent the notice of reconvened hearing, the interim decision and all other required documents by registered mail to the tenant at the rental unit formerly occupied by the tenant. The landlord testified that the tenant did not provide a forwarding address to her when she vacated the rental unit on March 13th.

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;*
- as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

The landlord testified that the Notice of Dispute Resolution Proceedings was sent to the tenant via registered mail on March 24th, 2022. The address to which the Notice of Dispute Resolution Proceedings was sent was not the current address at which the tenant resided at, having moved out on March 13th. Consequently, I find the landlord did not serve the tenant with the Notice of Dispute Resolution Proceedings in accordance with section 89 of the Act and I dismiss the landlord's application seeking a monetary order for unpaid rent and/or utilities with leave to reapply.

The filing fee will not be recovered.

Conclusion

The landlord's application seeking an Order of Possession is dismissed without leave to reapply.

The landlord's application seeking a monetary order for unpaid rent and/or utilities 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: July 08, 2022

Residential Tenancy Branch