



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS
LTD and [tenant name suppressed to protect privacy]

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 \$1,340.00, 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 15 minutes. The landlord's agent 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 9:30 a.m. and ended at 9:45 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's agent and I were the only people who called into this teleconference.

The landlord's agent confirmed her name and spelling. She stated that she is employed as a resident manager of the landlord company ("landlord") named in this application. She said that she had permission to speak on behalf of the landlord at this hearing. She confirmed the legal name of the landlord. She said that the landlord owns the rental unit. She confirmed the rental unit address. She provided her email address for me to send a copy of this decision to her after this hearing.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recording of this hearing by any party. At the outset of this hearing, the landlord’s agent affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord’s agent. I informed her that I could not provide legal advice to her or act as her agent or advocate. She had an opportunity to ask questions, which I answered. She did not make any adjournment or accommodation requests. She confirmed that she was ready to proceed with this hearing and she wanted me to make a decision.

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 April 19, 2022, was issued by an Adjudicator to the landlord, for the direct request proceeding. The interim decision adjourned the landlord’s application from the direct request proceeding to this participatory hearing. A notice of reconvened hearing, dated April 19, 2022, was also issued by the RTB to the landlord. The interim decision states the following at page 2, as to why the application was adjourned to this participatory hearing:

I have reviewed all documentary evidence and I find the landlord’s name does not appear on the 10 Day Notice issued to the tenants.

I also find that the residential tenancy agreement is not signed by Tenant I.A.M., which is a requirement of the Direct Request process.

I find these discrepancies raise questions that can only be addressed in a participatory hearing.

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 interim decision states the following at page 3 (bold emphasis in original):

***Notices of Reconvened Hearing are enclosed with this interim decision.
The applicant must serve the Notice of Reconvened Hearing, the interim***

decision, and all other required documents, upon each tenant within three (3) days of receiving this decision in accordance with section 89 of the Act.

The landlord's agent stated that she served the two tenants with the above documents by registered mail. She said that she did not know the dates of service. She did not provide any registered mail tracking numbers during this hearing. She claimed that she was a new manager dealing with this application, since another manager dealt with it before her.

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's agent did not provide service dates or registered mail tracking numbers to confirm service, during this hearing. The landlord did not provide any registered mail receipts, tracking numbers, or other service documents to confirm the above service, as evidence with this application. The two tenants did not attend this hearing to confirm service of the above documents.

The landlord's agent was given ample time of 15 minutes during this hearing to look through her paperwork and provide evidence regarding service.

The landlord originally filed the direct request application on March 16, 2022. The interim decision and the notice of reconvened hearing are both dated April 19, 2022. This hearing occurred on August 2, 2022.

The landlord had ample time from April 19, 2022 to August 2, 2022, a period of approximately 3.5 months, to provide the above information and documentation regarding service of the interim decision and notice of hearing.

I notified the landlord's agent that the landlord's application for an order of possession and a monetary order for unpaid rent were dismissed with leave to reapply. I informed her that the landlord's application to recover the \$100.00 filing fee was dismissed without leave to reapply. I notified her that the landlord was at liberty to file a new application and pay a new filing fee, if the landlord wants to pursue this matter in the future. She confirmed her 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: August 02, 2022

Residential Tenancy Branch