



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, MNDCT, CNR, RP, PSF, OLC, FFT, OPR-DR, MNR-DR, FFL

Introduction

This was a cross application hearing that dealt with the tenants' application pursuant to the Residential Tenancy Act (the Act) for:

- a Monetary Order for damage or compensation under the Act, pursuant to section 67;
- an Order for regular repairs, pursuant to section 32;
- an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65;
- cancellation of a 10 Day Notice to End Tenancy pursuant to section 46;
- an Order for the landlord to comply with the Act, regulation, and/or the tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

This hearing also dealt with the landlord's application pursuant to the Residential Tenancy Act (the Act) for:

- an Order of Possession for Unpaid Rent, pursuant to sections 46 and 55; unpaid rent, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72.

The landlord and agent were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings.

Preliminary Issue- Failure to Attend

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. The landlord and his agent 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 landlord, the landlord's agent and I were the only ones who had called into this teleconference.

Rule 7.1 of the Residential Tenancy Rules of Procedure states that the dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

Rule 7.3 states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Based on the above, in the absence of any evidence or submissions from the tenants, I order the tenants' application dismissed without liberty to reapply.

Preliminary Issue- Service

The agent testified that the landlord served the tenants with his application for dispute by posting the Notice of Hearing Documents and Application to the tenants door on July 1, 2022.

Section 89 of the Act sets out the approved methods of service for applications for dispute resolution as follows:

89 (1)An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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;

(e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents];

(f) by any other means of service provided for in the regulations.

The agent stated on three separate occasions that he only posted the Notice of Hearing Document and Application to the tenants door, accordingly; I dismiss the landlord's application for dispute resolution with leave to reapply for failure to prove service in accordance with section 89 of the Act.

I notified the landlords agent that if he wished to pursue this matter further, he would have to file a new application. I cautioned him to be prepared to prove service at the next hearing, as per section 89 of the Act.

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: October 17, 2022

Residential Tenancy Branch