



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTSIDE HOMES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on October 10, 2022, wherein the Landlord sought an Order of Possession and monetary compensation based on a 10 Day Notice to End Tenancy for Unpaid Rent Issued on August 17, 2022. The Landlord also sought recovery of the filing fee.

The hearing of the Landlord's Application was scheduled for 11:00 a.m. on November 7, 2022. Both parties called into the hearing. The Tenant called in on his own behalf and the Landlord was represented by A.A. an Articled Student at the law firm representing the corporate landlord.

The Tenant confirmed he applied to dispute the Notice on August 26, 2022. The file number for his application is noted on the unpublished cover page of this my Decision.

Preliminary Matter—Service of the Application Materials

The Tenant claimed he was not informed of the Landlord's Application until he attended a service B.C. office on October 28, 2022, shortly before the hearing. He further claimed he was not served with the Landlord's Application nor any of the Landlord's evidence.

The Landlord's representative A.A. was not able to confirm when the Tenant was served with Notice of the Hearing; the Landlord also failed to submit any documents confirming such service.

Section 89 of the *Act* provides for service of an application for dispute resolution and provides as follows:

Special rules for certain documents

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]*.

Based on the evidence before me, I am unable to find that the Landlord served the Tenant in accordance with section 89 and accordingly the Landlord's application is dismissed with leave to reapply.

During the hearing the Tenant and the Landlord's representative agreed the amount of rent outstanding as of the date of the hearing was \$7,500.00. The Tenant confirmed he had the funds available to pay this amount, but was not certain to whom he should pay as the property had been sold and the name of the Landlord was not clear to him.

At first the Landlord's representative was not able to confirm whether payment should be made to the Landlord personally or to the corporate entity. The Landlord's representative then stated that any payment could be made to the corporation through the law firm. The address of the law firm was confirmed during the hearing and the Tenant stated he would pay the \$7,500.00 by no later than close of business on

November 8, 2022. The parties agreed the Tenant would make all future rent payments of \$1,500.00 to this address.

The parties also agreed they would attempt to resolve the remaining issues raised in the Tenant's Application scheduled to be heard on February 6, 2022. Should those matters be resolved, the parties are encouraged to inform the Residential Tenancy Branch of any settlement and release the hearing date to be used for the resolution of other disputes.

Conclusion

The Landlord failed to serve the Tenant with the Application, Notice of Hearing and evidence in support of the claim. 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: November 07, 2022

Residential Tenancy Branch