



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

This hearing was convened in response to an application by the Tenant and an application by the Landlords pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on November 1, 2022 with an amendment made December 16, 2022 for:

1. An Order cancelling a notice to end tenancy - Section 46;
2. A Monetary Order for compensation or loss - Section 67;
3. An Order restricting the Landlord’s entry into the unit - Section 70;
4. An Order authorizing a lock change - Section 70; and
5. An Order for the Landlord to comply - Section 62.

The Landlords applied on January 5, 2023 for:

1. An Order of Possession - Section 55; and
2. An Order for unpaid rent or utilities - Section 67.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

The Parties confirm that the Tenant’s belongings have been moved out of the unit and that the keys have been returned to the Landlord. Given this confirmation, I find that the tenancy has ended and I dismiss the Tenant’s claims to cancel the notice to end tenancy, restricting the Landlord’s entry, authorizing a lock change, and ordering the Landlord to comply without leave to reapply as these claims are only related to an ongoing tenancy or to keep the tenancy ongoing. The Tenant’s claim for compensation is dismissed with leave to reapply. Leave to reapply is not an extension of any limitation period.

The Landlord served the Tenant with their application for dispute resolution, notice of hearing and evidence (the "Hearing Package") by email on January 12, 2023. The Tenant states that they did not receive the Landlord's Hearing Package. The Landlord confirms that the Tenant did not provide authorization for service of documents by email. The Parties dispute when the Tenant moved out of the unit. The Tenant has supporting evidence of the date of the move-out but did not provide it for this hearing as the Tenant was unaware of the Landlord's claim for rent and utilities.

Section 89(1) of the Act provides that 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.

Section 43(3) of the Regulations provides that for the purposes of section 89 (2) (f) of the Act, the documents described in section 89 (2) of the Act may be given to a tenant by emailing a copy to an email address provided as an address for service by the tenant. Given the confirmation that the Tenant has moved out of the unit and returned the keys I find that the Landlords do not require an order of possession and I dismiss that claim without leave to reapply. As the Landlords did not have any authorization to serve the Hearing Package by email, as the Tenant was unaware of the Landlords' claim for unpaid rent and as there is a dispute over the date of the Tenant's move out of

the unit, I dismiss the Landlord's claims for unpaid rent and utilities with leave to reapply. Leave to reapply is not an extension of any limitation period.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: March 14, 2023

Residential Tenancy Branch