



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes Landlords' application: OPC, MNDCL-S, FFL
Tenants' application: MNSDS-DR

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear a cross application regarding the above-noted tenancy.

The landlords' application pursuant to the Act is for:

- an order of possession under a One Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55;
- a monetary order for loss under the Act, the Residential Tenancy Regulation (the Regulation) or tenancy agreement, pursuant to section 67;
- an authorization to retain the security deposit (the deposit), under section 38;
- an authorization to recover the filing fee, under section 72.

The tenants' application pursuant to the Act is for an order for the landlord to return the deposit, pursuant to section 38.

Landlord AD (the landlord) and tenant MB (the tenant) attended the hearing. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlords' application lists landlord AD and tenants respondents MB and HJ. The tenants' application lists tenant MB and landlords respondents NR and DG.

The landlord affirmed the tenants moved out on February 28, 2023 and did not give the forwarding address. The landlord did not serve the notice of hearing, as she does not know the tenants' forwarding address.

The tenant stated that she moved out on February 28, 2023 and attached the forwarding address to the landlord's front door on March 16, 2023. The tenant confirmed the forwarding address (recorded on the cover page of this decision) during the hearing.

The tenants' notice of hearing is dated May 8, 2023. The tenant testified that she registered mailed the notice of hearing to the landlords. The tenant does not have the tracking number and submitted one registered mail receipt into evidence. The tracking number submitted (recorded on the cover page of this decision) is for a package mailed on April 14, 2023.

The landlord said that she learned about the tenants' application one day before the hearing because she called the Residential Tenancy Branch (RTB).

I accept the landlord's testimony that she did not serve the notice of hearing for the landlord's application.

Based on the tenant's testimony, I find the tenant did not serve the notice of hearing for the tenants' application, as the tenant provided a tracking number for a package mailed on April 14 and the tenants' notice of hearing is dated May 8, 2023.

As the applicants did not serve their notices of hearing and considering that I did not make any findings about the merits of these claims, I dismiss the applications with leave to reapply. Leave to reapply is not an extension of the timeline to apply.

The landlord must bear the cost of the filing fee, as the landlord was not successful.

Per section 71(2)(b) and Regulation 44, I deem the landlords sufficiently served the tenants' forwarding address three calendar days after the day of this decision. I note that I am not making a finding if this address was served before this hearing.

Conclusion

I dismiss both applications 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: June 16, 2023