



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT

Introduction

This expedited hearing was set to deal with a tenant's application for an Order of Possession on the basis the landlord unlawfully took possession of the rental unit.

Both parties appeared for the hearing and were affirmed.

The tenant had named a numbered company and an individual by the initials JT as being the landlords; however, after hearing from both parties, I determined the landlord is an individual by the initials JJMB and the numbered company does not have standing as landlord. Further, JT was an agent for the landlord at one time but is no longer acting as the landlord's agent. The application was amended, with consent, to name the landlord as JJMB only. JT was excluded from the remainder of the hearing.

I heard the tenant left the proceeding package with a resident caretaker at the location of the landlord's office on January 13, 2023. JJMB received the tenant's proceeding package on January 16, 2022. Although not served properly, JJMB was prepared to proceed with the hearing and I deemed him sufficiently served pursuant to the authority afforded me under section 71 of the Act.

The landlord had uploaded evidence to the Residential Tenancy Branch service portal on January 16, 2023 but did not send it to the tenant. It was explained that there would be insufficient time for the tenant to receive it by mail. The tenant's service address is a PO Box number and there is a Release Order prohibiting the tenant from coming near JJMB so personal service or attaching documents to the tenant's current residence was not an option. Given this hearing was scheduled so soon after the proceeding package was generated, and in the circumstances, I was of the view that the inability to serve the tenant in time for this proceeding was due to time constraints and not due to unreasonable delay on part of the landlord. However, in consideration the tenant has

not seen the landlord's evidence, and to ensure a fair hearing, I informed the parties that I would take their verbal testimony and if it was imperative that I review a document that I would describe it to the tenant so that he may respond to it. During the remainder of the hearing, it was unnecessary for me to review any of the documents, for reasons explained below.

I proceeded to explain the hearing process to the parties and gave the parties the opportunity to ask questions about the process.

After hearing both parties' version of events, and in consideration of current circumstances, including the Release Order against the tenant that is still in effect, the tenant gave further consideration to his available remedies. The tenant decided to request withdrawal of this Application for Dispute Resolution and he will pursue the landlord for monetary compensation by way of a future Application for Dispute Resolution.

I have recorded this application as being withdrawn. The tenant remains at liberty to file another Application for Dispute Resolution if he seeks monetary compensation against the landlord.

The landlord suggested that if the tenant makes a monetary claim against him that the materials be served by mail. The parties confirmed the tenant has the landlord's service address at which registered mail can be received.

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: January 20, 2023

Residential Tenancy Branch