



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RR, RP, LRE, OLC, FFT

Introduction

This hearing was scheduled to convene at 9:30 a.m. on January 30, 2024 concerning an application made by the tenant seeking the following relief:

- an order cancelling a notice to end the tenancy for unpaid rent or utilities;
- an order reducing rent for repairs, services or facilities agreed upon but not provided;
- an order that the landlord make repairs to the rental unit or property;
- an order limiting or setting conditions on the landlord's right to enter the rental unit;
- an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement; and
- to recover the filing fee from the landlord for the cost of the application.

The tenant and the landlord attended the hearing and the landlord was assisted by the landlord's daughter.

At the commencement of the hearing the landlord's daughter indicated that the tenant has not served the Notice of Dispute Resolution Proceeding and other required documents. The tenant responded indicating that the documents were served by email, which the landlord did not acknowledge receiving.

The *Residential Tenancy Act* sets out several methods for service of a Notice of Dispute Resolution Proceeding:

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 regulations provide as follows:

43 (2) For the purposes of section 89 (1) (f) [*special rules for certain documents*] of the Act, the documents described in section 89 (1) of the Act may be given to a person by emailing a copy to an email address provided as an address for service by the person.

Since the parties have indicated that an email address for service was not provided as an address for service of a Notice of Dispute Resolution Proceeding, I find that the tenant has not served the landlord in accordance with the law.

However, during the course of the hearing the parties agreed to the following orders:

1. The landlord will have a monetary order for rental arrears in the amount of \$2,200.00;
2. The 10 Day Notice to End Tenancy For Unpaid Rent or Utilities dated January 2, 2024 is cancelled and the tenancy continues;
3. The tenant agrees to pay rent going forward on the 1st day of each month in accordance with the tenancy agreement;
4. The landlord will provide utility bills to the tenant when they are received, not when they are due.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this settlement.

Since the parties have settled a portion of the dispute, I decline to order that the tenant recover the filing fee from the landlord, and the balance of the tenant's application is dismissed with leave to reapply.

Conclusion

For the reasons set out above, and by consent, I hereby grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,200.00.

The 10 Day Notice to End Tenancy For Unpaid Rent or Utilities dated January 2, 2024 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

I hereby order the tenant to pay rent going forward on the 1st day of each month in accordance with the tenancy agreement.

I hereby order the landlord to provide any utility bills to the tenant when they are received, not when they become due.

The tenant's application for recovery of the filing fee is hereby dismissed without leave to reapply.

The balance of the tenant's application is hereby 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: January 30, 2024

Residential Tenancy Branch