



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Cause; a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing the Landlord's Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause; for more time to apply to set aside a Notice to End Tenancy; for an Order requiring the Landlord to provide access to the rental unit for the Tenant or the Tenant's guest; for authorization to change the locks to the rental unit; for an Order suspending or setting conditions on the Landlord's right to enter the rental unit; for a monetary Order for money owed or compensation for damage or loss; for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement; for authorization to reduce the rent; and to recover the fee for filing the Tenant's Application for Dispute Resolution.

The Tenant stated that he served the Landlord with the Tenant's Application for Dispute Resolution and Notice of Hearing, via registered mail, on September 20, 2012. The Landlord acknowledged receipt of these documents.

The Landlord stated that she served the Tenant with the initials "G.C" with the Landlord's Application for Dispute Resolution and Notice of Hearing, via registered mail, on September 7, 2012. The Landlord submitted a Canada Post receipt, with a tracking number, which corroborates this testimony. In the absence of evidence to the contrary, I find that this Tenant was served with notice of this hearing, pursuant to section 89(1)(c) of the *Act*, and the hearing proceeded in his absence.

The Landlord stated that she served the Tenant with the initials "M.T." with the Landlord's Application for Dispute Resolution and Notice of Hearing, via registered mail, on September 7, 2012. The Landlord submitted a Canada Post receipt, with a tracking number, which corroborates this testimony. The Tenant with the initials "M.T." stated that he has not been staying at the rental unit and that he did not, therefore, receive this mail. He stated that he did not know the Landlord had filed an Application for Dispute Resolution until this hearing had commenced.

The Landlord declined the opportunity to request an adjournment for the purposes of serving the Tenant with the initials "M.T." with the Application for Dispute Resolution. The hearing proceeded with the understanding that the Landlord would not be awarded a monetary Order naming the Tenant with the initials "M.T.".

During the hearing both parties were provided with the opportunity to present oral evidence that was relevant to the Notice to End Tenancy, to ask relevant questions regarding that matter, to make relevant submissions regarding that matter, and to reach a settlement regarding that matter.

As the Tenant was supporting his claim for loss of quiet enjoyment he was repeatedly denied the opportunity to discuss personal matters that occurred in his life prior to this tenancy. The Tenant became increasingly disturbed about my refusal to allow him to introduce this evidence at the hearing and at one point declared that I had been unable to help him in the past and that I was not helping him now. Approximately 45 minutes after the commencement of the hearing the Tenant became highly emotional and exited the teleconference, although his telephone line was left open.

Approximately 3 minutes after the Tenant exited the teleconference the Friend of the Tenant informed me that the Tenant was upset and had advised her that he recalled having prior professional dealings with me in a capacity related to my former employment. On the basis of comments made during the hearing and the information provided by the Friend of the Tenant, I find it highly likely that I have had prior professional dealings with the Tenant, although I have no recollection of those matters.

To avoid any perception of bias, specifically to ensure that the Tenant believes this matter is being adjudicated by an impartial, unbiased party, I find it appropriate that I recuse myself. I find that this matter should be adjudicated by a different Dispute Resolution Officer.

The Landlord and the Friend of the Tenant were advised that a new hearing would be convened and that the Residential Tenancy Branch would mail a Notice of Hearing to each party and that each party was expected to attend at the time and date noted on the Notice of Hearing.

As this matter has been adjourned, the Landlord now has the opportunity to serve the Tenant with the initials "M.T." with the Landlord's Application for Dispute Resolution, if the Landlord wishes a monetary Order naming the Tenant with the initials "M.T."

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: October 11, 2012.

Residential Tenancy Branch