



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

LANDLORD: MNR, OPR
TENANT: CNC, CNR, OLC

Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenant.

The Landlord filed seeking an Order of Possession and a monetary order for unpaid rent.

The Tenant filed to obtain an order to cancel the Notices to End Tenancy and for the Landlord to comply with the Act, regulations and tenancy agreement.

The Landlord said service of the hearing documents by the Landlord to the Tenant was done by his mother by personal delivery on or about August 15, 2017. The Landlord's representative was not sure of the day the hearing package was served to the Tenant. The Tenant said he moved out of the rental unit on August 16, 2017 and the Landlord did not serve him with the Landlord's hearing package or anything else on or about that time.

Service of the hearing documents by the Tenant to the Landlord was done by registered mail on July 31, 2017 and the Tenant's amended application was done by registered mail on August 10, 2017 in accordance with section 89 of the Act.

Issues to be Decided

Landlord:

1. Is the Landlord entitled to an Order of Possession?
2. Is there unpaid rent and if so how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Tenant:

1. Is the Tenant entitled to an order to cancel the Notices to End Tenancy?
2. Has the Landlord complied with the Act, regulations and tenancy agreement?

Background, Evidence and Analysis

At the start of the Hearing the Tenant said he moved out of the rental unit on August 16, 2017 and the tenancy is over. The Landlord agreed the Tenant moved out on August 16, 2017 and the Landlord said they have possession of the rental unit. As the Tenant is not disputing the tenancy has ended and the Landlord has possession of the rental unit; I dismiss the Tenant's claim

to cancel the Notices to End Tenancy as they are no longer necessary. Further I dismiss the Landlord's request for an Order of Possession as the Landlord has possession of the rental unit.

In addition as the tenancy has ended, I dismiss the Tenant's request for the Landlord to comply with the Act, regulations and tenancy agreement as there is no tenancy between the Tenant and the Landlord.

Further I accept the Tenant's testimony that he moved out of the rental unit on August 16, 2017 and that the Landlord did not serve him the Landlord's Hearing package. The Landlord's representative was unsure about the date it was served and the Notice of Hearing the Landlord received from the Residential Tenancy Branch was sent to the Landlord on August 15, 2017. As well the Landlord phoned the Branch for instruction on what to do on August 18, 2017. This was 2 days after the tenancy ended and the Tenant moved out. Consequently I accept the Tenant's statement that he did not receive the Landlord's hearing package. I dismiss the Landlord's application due to lack of service of the Hearing package to the Tenant.

Conclusion

The Tenant's application is dismissed with leave to reapply on unrelated matters.

The Landlord's application is dismissed with leave to reapply on unrelated matters.

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, 2017

Residential Tenancy Branch