



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act"), for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 10 minutes. The two landlords attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The two landlords stated that the two tenants were served with the landlords' application for dispute resolution hearing package on November 2, 2020. When questioned, both landlords confirmed that they were sure about this date. The landlords did not indicate how the tenants were served and they did not provide any Canada Post receipts for this date, if the tenants were served by registered mail.

The notice of hearing for this application is dated November 6, 2020.

I find that the landlords did not serve the tenants with the landlords' application, as required by section 89 of the *Act*. The landlords provided a date of November 2, 2020, which is prior to the notice of hearing date of November 6, 2020. The landlords were given ample time of 10 minutes during the hearing in order to look up information and to provide the correct date of service.

I notified the landlords that their application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed them that they could file a new application, pay a new filing fee, and provide proof of service at the next hearing, if they choose to pursue this matter further. The landlords confirmed their understanding of same.

I informed the landlords that they did not provide a copy of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice") with their application. I notified them that the 10 Day Notice was required in order for an Arbitrator to make a decision about their application for an order of possession.

I informed the landlords that they could hire a lawyer in order to obtain legal advice, if they wished to do so. The landlords confirmed their understanding of same.

Conclusion

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlords' application is 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 26, 2021

Residential Tenancy Branch