



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Nest Property Management and Real Estate Services
Ltd. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (Application) by way of a Direct Request Proceeding, filed by the Landlord under the *Residential Tenancy Act* (Act) on July 19, 2022, seeking:

- An Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice);
- Recovery of unpaid rent and utilities; and
- Recovery of the filing fee.

The Direct Request Proceeding was commenced in writing by the Landlord and on August 31, 2022, an adjudicator with the Residential Tenancy Branch (Branch) issued a decision. In that decision the adjudicator found that the Direct Request Proceeding documents, including the Notice of Dispute Resolution Proceeding (NODRP), were sent to the Tenants by registered mail on August 8, 2022, and deemed them served five days later on August 13, 2022. They also ordered that a participatory hearing be convened. Branch records show that the above noted decision and the new Notice of Hearing (NOH) were emailed to the Landlord on August 31, 2022, for service on the Tenants by the Landlord.

The hearing was reconvened by teleconference call on March 10, 2023, at 11:00 AM and was attended by the agent for the Landlord B.C. (Agent), who provided affirmed testimony. The Tenants did not attend. I asked if the name listed for the Landlord in the Application was the full name of the legal entity, and they stated that it was not, as there was insufficient space provided on the Application to list the full name. The Agent provided me with the full name, and the Application was amended accordingly.

The Agent stated that the Tenants were served with the NOH and the Direct Request decision via registered mail sent to the rental unit on November 15, 2022. The Agent also provided copies of the registered mail receipts and tracking slips. Based on the above and in the absence of any evidence to the contrary, I find that the Tenants were deemed served with the above noted documents on November 20, 2022, pursuant to section 90(a) of the Act. As a result, the hearing proceeded pursuant to rule 7.3 of the Residential Tenancy Branch Rules of Procedure (Rules of Procedure) despite the absence of the Tenants or an agent acting on their behalf.

The Agent testified that the Landlord wishes to withdraw the Application as the matter of outstanding rent has been resolved and a mutual agreement to end the tenancy has since been reached with the Tenants. The Application is withdrawn accordingly. The Landlord remains at liberty to reapply, should they wish to do so. This is not an extension of any statutory deadline.

This decision is made on authority delegated to me by the Director of the Branch under Section 9.1(1) of the Act.

Dated: March 15, 2023

Residential Tenancy Branch