



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes OPR, MND, MNR, FF

Introduction

This application is a request by the landlord for an order of possession for unpaid rent and a monetary order for unpaid rent and damage to the property.

At the commencement of the hearing, the landlord indicated that a previous order of possession had been obtained and that the tenant had been removed on September 9, 2008.

The tenant did not appear at the hearing and the landlord was requested to provide details of service in relation to the application for dispute resolution and the notice of hearing documents. The landlord's evidence was that the tenant had been served all of the required documents on August 14, 2008 by posting the documents on the door of the rental unit

Analysis

I quote from the Residential Tenancy Act:

Special rules for certain documents

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)



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

- [director's orders: delivery and service of documents].
- (2) An application by a landlord under section 55 [order of possession for the landlord] , 56 [application for order ending tenancy early] or 56.1 [order of possession: tenancy frustrated] must be given to the tenant in one of the following ways:
- (a) by leaving a copy with the tenant;
 - (b) by sending a copy by registered mail to the address at which the tenant resides;
 - (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
 - (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
 - (e) as ordered by the director under section 71 (1)
- [director's orders: delivery and service of documents].

The landlord has applied for a monetary order and therefore is required to serve the hearing documents on the tenant in a manner prescribed under s. 89(1). If the landlord's application was solely for an order of possession they would be able to use the service provisions of s. 89(2).

Conclusion

In the absence of the tenant at the hearing to acknowledge service of the hearing documents, I find that the tenant has not been served in a manner prescribed by s. 89(1). I must therefore dismiss the landlord's application with leave to re-apply.

Dated: September 12, 2008.

Dispute Resolution Officer