



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This matter dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord was present at the hearing, held via teleconference, but there was no representation for the tenant. The landlord stated that the tenant had not been seen in about a month and that he believed she moved out on August 1, 2008. The landlord gave evidence that he had served the application for dispute resolution and the notice of hearing via registered mail sent to the tenant at the above address, on August 22, 2008.

Issues(s) to be Decided

Was the tenant served the hearing documents in a prescribed manner?

If so, is the landlord entitled to an order of possession and a monetary order for unpaid rent?

Background and Evidence

I quote from s. 89(1) of the Residential Tenancy Act: (highlighting added)

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



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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)
[director's orders: delivery and service of documents].

Analysis

The landlord's evidence is that he was aware that the tenant had vacated the premises on or about August 1, 2008. They served the hearing documents via registered mail, sent August 22, 2008, addressed to the tenant at the rental unit, where they knew the tenant now longer "resided". The legislation clearly states that the mail must be sent to where the person "resides". The landlord had knowledge of the tenant no longer residing there and has not supplied any evidence to indicate that the tenant was properly served or ever became aware of the hearing.

Conclusion

I am not satisfied based upon the evidence before me that the tenant has been served the necessary documents required for the hearing to proceed. I therefore dismiss the landlord's application with leave to reapply.

Dated: September 16, 2008

Dispute Resolution Officer