



Dispute Resolution Services

Residential Tenancy Branch

Office of Housing and Construction Standards

Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: ET FF

Introduction:

This hearing dealt with an application by the landlord for an early end to this tenancy based on the allegations that the tenant has physically assaulted the landlord, significant damaged the rental and is unreasonably disturbing the quiet enjoyment of other occupants or the landlord.

The landlord had three days in which to serve the tenant with notice of this hearing. The landlord filed the application on January 22, 2009 and received a notice of hearing set for this date. The landlord was required to ensure that the tenant was served with notice of this hearing on the tenant in a manner that the tenant was served prior to the hearing date.

The landlord served the tenant by registered mail which is not deemed to have been received until the 5th day after it has been sent. The landlord did not send the documents until January 23, 2009 and according to the tracking information the documents were not served to the tenant's address until January 28, 2009, the day before the scheduled hearing. The tenant did not appear for the hearing and I am not satisfied that the tenant has been adequately served notice of this hearing since the date of the hearing is prior to the tenant being deemed as having received the notice of the hearing.

Conclusion:

The obligation was on the landlord to effectively serve the tenant notice of this hearing in a manner that ensured the tenant was aware of the landlord's application and hearing before it occurred. The landlord did not meet this service required and as a result I dismiss the landlord's application with leave to re-apply.

Dated: January 29, 2009.

Dispute Resolution Officer