



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: OP MN FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55; and
3. An Order to recover the filing fee pursuant to Section 72.

Service

I accept that the tenant was properly served with the Notice to End Tenancy by posting the Notice to the rental unit door on January 5, 2009.

Section 82 of the *Manufactured Home Park Tenancy Act* sets out how documents are to be served:

82 (1) An **application for dispute resolution** or a decision of the director to proceed with a review under Division 2 of Part 6, 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 64 (1) *[director's orders: delivery and service of documents]*.

(2) An **application by a landlord under section 48 *[order of possession for the landlord]*** 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 64 (1) *[director's orders: delivery and service of documents]*.

83 A document given or served in accordance with section 81 *[how to give or serve documents generally]* or 82 *[special rules for certain documents]* is deemed to be received as follows:

- (a) if given or served by mail, on the 5th day after it is mailed;
- (b) if given or served by fax, on the 3rd day after it is faxed;
- (c) if given or served by attaching a copy of the document to a door or other place, on the 3rd day after it is attached;**
- (d) if given or served by leaving a copy of the document in a mail box or mail slot, on the 3rd day after it is left.

The landlord gave evidence that he served the tenant with the Application for Dispute Resolution by posting the Application to the rental unit door on January 26, 2009. The tenants did not appear at the hearing.

Findings

The landlord gave evidence that he served the tenant with the Application for Dispute Resolution seeking a monetary order and an order of possession by posting the Application to the rental unit door on January 26, 2009. The tenants did not appear at

the hearing. An Application for Dispute Resolution seeking a monetary order may not be served by posting the Application to the rental unit door. An Application for Dispute Resolution seeking an Order of Possession may be posted. Once posted it is deemed to have been received on the third day after posting. The landlord's evidence is that the Application was posted on January 26, 2009 today, the day of this hearing, is the third day and the day on which the tenant's would be deemed served.

Conclusion

The landlord's application for a monetary order is dismissed because it has not been properly served. The landlord's application for an order of possession is dismissed because the time for deemed service had not expired as of the date and time of the hearing. Both applications are dismissed with leave to reapply.

Filing Fees

Having been unsuccessful in his application the landlord's application for recovery of the filing fees is dismissed.

Dated: December, 2009