DECISION

Dispute Codes   OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession, a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenant for this application.

Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order under sections 55, 67, and 72 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified that the Tenant was served the Notice of Dispute Resolution on July 24, 2009 when the Property Manager posted the notice on the Tenant's door, in the presence of the Resident Manager.

The Landlord confirmed that the Tenant vacated the rental unit on approximately August 4, 2009 so he was withdrawing his request for an Order of Possession and seeking only a Monetary Order.

Analysis

The Landlord provided testimony that the Notice of Dispute Resolution was posted to the Tenant's door. After a brief discussion on the requirements of service the Landlord changed his testimony to say that he provided the Tenant with a copy of the notice in person a few days after it was posted to the Tenant's door. In the presence of contradictory testimony by the Landlord I find that the Landlord has failed to prove that service of the Notice of Dispute Resolution was effected in accordance with section 89 of the Act.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with the *Act*, I dismiss the Landlord's claim, with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlord's claim, with leave to reapply.

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

Dated: September 09, 2009.

_____

Dispute Resolution Officer