DECISION

Dispute Codes   OPR, MNR, FF

Introduction

This reconvened hearing dealt was scheduled pursuant to a Direct Request Proceeding decision issued September 25, 2009 to deal with the landlord's request for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and recovery of the filing fee. The tenant did not appear at the hearing. The landlord testified that the tenant has not been seen at the rental site, or elsewhere, for approximately one year. Rather, a person the landlord believes to be the tenant's boyfriend was last seen at the rental site in July 2009. The landlord stated that he does not know the whereabouts of the tenant. The landlord attempted to serve the tenant with notification of this hearing by placing the hearing package in the mailbox on the manufactured home.

The landlord testified that the tenant's mail still arrives at the manufactured home park and it was the landlord's position that in the absence of another address for the tenant, the landlord considers the tenant's address to be that of the rental site.

Issues(s) to be Decided

Has the landlord adequately served the tenant with notification of the landlord's claims against the tenant?

Analysis

Section 82 of the Act provides for the ways a party must serve the other party an application for dispute resolution.

Section 82(1) provides for ways an application may be served upon the other party with respect to a monetary claim. Where a landlord serves a tenant, the landlord must serve the tenant in person or by registered mail. The landlord did not serve this application upon the tenant in person or by registered mail and the tenant has not been adequately served with respect to the monetary component of this claim.

Section 82(2) provides for ways an application may be served upon a tenant with respect to a landlord's application for an Order of Possession. Section 82(2) provides for the following methods of service:

> (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 <u>at the address at which the tenant resides</u>;
>
> (e) as ordered by the director under section 64 (1) *[director's orders: delivery and service of documents]*.

Placing the application in the mailbox is not the same as posting on a door as the inside of a mailbox is not as conspicuous as on a door. Even if the landlord had posted the application on the door of the manufactured home, the landlord did not satisfy me that the tenant resided at the rental site when the application was delivered to the rental site. As information for the landlord, the Act does not define the word "resides"; however, the common meaning of "resides" is the place at which a person lives or makes their home. Having heard the tenant had not been seen at the rental site in the last year would indicate that the tenant is not living at the rental site.

In light of the above, I find the landlord has not served the tenant in a manner that complies with section 82 of the Act. Accordingly, I dismiss this application with leave to reapply in order for the landlord to properly serve the tenant.

The landlord may wish to contact the Residential Tenancy Branch to obtain more information about abandoned property rules or contact a process server to assist in locating the tenant.

Conclusion

The landlord did not establish that the tenant was served with the landlord's application in a manner that complies with the Act and I dismiss the application 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 *Manufactured Home Park Tenancy Act.*

Dated: November 17, 2009.

_____
Dispute Resolution Officer