



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPL, MNSD, MNR, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession, authorization to retain the tenant's security deposit, monetary compensation for unpaid rent, and recovery of the filing fee. The tenant did not appear at the hearing. The landlord was requested to provide evidence of service of the hearing documents and evidence upon the tenant. The landlord testified that he sent the hearing package to the tenant's forwarding address via registered mail. The landlord could not provide the date the registered mail was sent or a tracking number. The landlord did not supply a copy of the registered mail receipt as evidence before the hearing.

Upon further enquiry, the landlord testified that the tenant was required to vacate the rental unit July 1, 2009 and upon attending the property on July 8, 2009 the landlord discovered the rental unit vacated. On August 14, 2009 the landlord received a letter from the tenant requesting return of her security deposit and the tenant provided a forwarding address.

Issue(s) to be determine

Has the landlord established that the tenant was served with notification of this hearing and the landlord's claims against the tenant in a manner that complies with the Act?

Analysis

Dispute resolution proceedings are based on the principles of natural justice. Natural justice requires that a respondent be informed of the nature of the claim and the monetary amount sought against them by the applicant. This is one of the many purposes of the Application for Dispute Resolution and the Notice of Hearing. The Act requires that the applicant serve the respondent with notice of dispute resolution hearing, the Application for Dispute Resolution and the applicant's evidence in a manner that complies with section 89 of the Act, within three days of the making the application.

It is upon the applicant to prove service. Proof of service of registered mail should include the original receipt given by the post office and include the date of service and the address of service. The applicant must also be able to show that the address used is the forwarding address provided by the tenant or the tenant's address of residence. As the landlord was informed at the hearing, the time to provide documentary evidence is before the scheduled hearing.

In the absence of a registered mail receipt or tracking number or date of service I am unable to determine that the landlord served the tenant in a manner that complies with the Act and I dismiss the landlord's application with leave to reapply.

Conclusion

The landlord failed to prove service of the hearing documents upon the tenant in a manner that complies with the Act and I dismissed 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 *Residential Tenancy Act*.

Dated: December 11, 2009.

Dispute Resolution Officer