

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 and a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenant for this application.

Preliminary Issues

The Landlord testified that he has attempted to send the Tenant a copy of the Dispute Resolution Hearing documents via registered mail on two separate occasions however both envelopes have been returned to the Landlord.

The Landlord stated that the first registered mail envelope was sent on November 20, 2009 to the rental unit address, however it was returned to the Landlord as the Landlord had addressed the envelope incorrectly listing the wrong postal code.

The second registered mail envelope was sent to the Tenant addressed to a PO Box with a line drawn behind it, in the City where the rental unit is located. The Landlord argued that the post office would not tell him the Tenant's post office box number so the Landlord drew a line instead of writing a box number. This second envelope was also returned to the Landlord.

The Landlord argued that he served the Tenant personally with a 10 Day Notice to End Tenancy for unpaid rent on November 8, 2009, at the rental unit. There is no copy of this 10 Day Notice included as evidence with the Landlord's application.

Analysis

The Landlord provided evidence that the registered mail envelopes sent to the Tenant containing the hearing packages were both returned to the Landlord. The Landlord testified that he did not know the correct postal code or box number for the Tenant to be able to send registered mail to the Tenant.

I find that service of the Notice of Dispute Resolution was not effected in accordance with Section 89 of the *Residential Tenancy Act* which states that service of Notice of Dispute Resolution, if sent via registered mail, must be sent to the address at which the person resides.

To find in favour of an application 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.

As the Landlord has not been successful with his application, I find that he is not entitled to recover the cost of the filing fee from the Tenant.

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: January 04, 2010.

Dispute Resolution Officer