



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The tenant did not participate in the conference call hearing.

Issues(s) to be Decided

Has the landlord proven that the tenant was served with the notice of hearing and application for dispute resolution (the "Hearing Documents")?

Background and Evidence

The landlord testified that the owner of the building personally served the tenant with the Hearing Documents. The owner did not participate in the conference call hearing and did not provide a sworn statement confirming that he had indeed served the Hearing Documents on the tenant.

Analysis

The landlord bears the burden of proving that the tenant was served with the Hearing Documents in order to ensure that she has had notice of the dispute and opportunity to participate in the hearing to offer a defense. I am not prepared to accept the hearsay evidence of the landlord that the Hearing Documents were served on the tenant and therefore dismiss the application with leave to reapply. I note that the landlord was also unable to produce the party who served the Notice to End Tenancy on the tenant and was further unable to specifically identify the months for which rent was unpaid.

Conclusion

The landlord's claim is dismissed with leave to reapply.

Dated: January 13, 2010
