



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPB, O

Introduction

This hearing was set to deal with an Application for Dispute Resolution by the landlord for an Order of Possession because the tenant has breached an agreement with the landlord and other issues.

The landlord states that the hearing documents were served in person to the tenants on February 07, 2010 by her husband and a witness. The tenants did not appear at the hearing.

Section 3.3 of the Residential Tenancy Branch Rules of Procedure states:

3.3 Proof of service required at the dispute resolution proceeding

If the respondent does not attend the dispute resolution proceeding, the applicant must prove to the Dispute Resolution Officer that each respondent was served as required under the Act.

This means that the person who served the documents must either attend the dispute resolution proceeding as a witness. If the person who served the documents is not available to attend the dispute resolution proceeding, the applicant may submit as evidence an affidavit of service, sworn by the person who served the documents, informing the Dispute Resolution Officer how the service was accomplished.



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Analysis

In this instance I find the person and witness who served the tenants with the hearing documents were unable to attend the hearing and the landlord has not provided an affidavit of service. Consequently the landlord has not proved service of the hearing documents to the tenants. I also find as the tenants had signed an agreement to vacate the rental unit by today's date that the landlord has been premature in filing her application as the tenants still have today to vacate the rental unit.

Conclusion

I HEREBY FIND the landlords application is dismissed 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: February 15, 2010.

Dispute Resolution Officer