

DECISION

Dispute Codes OLC OPT O

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants to obtain an Order to have the Landlord comply with the Act, Other, and to obtain an Order of Possession.

Issues(s) to be Decided

Are the Tenants entitled to an Order to have the Landlord comply with the Act pursuant to section 62 of the *Residential Tenancy Act*?

Are the Tenants entitled to an Order of Possession pursuant to section 54 of the *Residential Tenancy Act*?

Background and Evidence

The female Tenant attended the hearing and advised the male Tenant has vacated the rental unit. The female Tenant confirmed the male Tenant personally served the Landlords with the notice of dispute resolution.

Analysis

The purpose of service of documents under the *Residential Tenancy Act* is to notify the person being served of their breach and notification of their rights under the *Act* in response. The Tenants are seeking an Order to have the Landlord comply with the Act and to obtain an Order of Possession for the rental unit; and so the Tenants have the burden of proving that the Landlords were served with all required documents in accordance with the *Residential Tenancy Act*.

Residential Tenancy Branch Rules of Procedure 3.3 stipulate that if a respondent does not attend the dispute resolution proceeding, the applicant(s) must prove to the Dispute

Resolution Officer that each respondent was served as required under the Act. If served in person, the person who served the documents must either attend the dispute resolution proceeding as a witness, either in-person or by conference call.

As per the female Tenant's testimony it was the male Tenant who served the Landlord(s) with the notice of dispute resolution hearing package and in his absence at the hearing, I find the applicant Tenants have failed to prove service of the hearing package has been effected in accordance with the *Act*.

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 Tenants' application, with leave to reapply.

Conclusion

I HEREBY DISMISS the Tenants' 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: March 23, 2010.

Dispute Resolution Officer