

REVIEW HEARING DECISION

Dispute Codes: OPR, MNR, MNSD and FF

Introduction

This Review Hearing was granted on an application by the tenant's daughter who challenged evidence submitted in the landlord's original application for a Direct Request Proceeding conducted on January 20, 2010 and in the telephone conference call hearing to which it was adjourned, held on January 26, 2010.

Background and Evidence

The tenant's daughter had challenged service of the Notice of Direct Proceeding and the Notice of the reconvened hearing. The Dispute Resolution Officer who conducted the Review Consideration found that questions surrounding service should be examined at a Review Hearing.

In the first instance, the tenant had claimed that service of the Notice of Direct Request Proceeding could not have been served as her mother had been in the hospital at the time on January 3, 2010.

A process server employed by the landlord's legal counsel gave evidence at the Review Hearing that he had served a woman at the rental unit at 9:30 a.m. who answered the

door in bed clothes. He was therefore satisfied that he had met the requirements of section 89(2)(c) of the *Act* by serving an adult who apparently resides with the tenant.

In the second instance, the tenant's daughter had challenged service of the reconvened hearing of January 29, 2010 on the grounds that the process server had left the documents by her sleeping mother's hospital bedside. During the hearing, the process server gave evidence that had arrived at the hospital at around 2 p.m. on January 26, 2010 and had been advised the patient was resting and he should return. He stated that he had done so, and served the documents to the tenant. He stated that he spoken with her and confirmed that she was lucid during the conversation.

Analysis

Having examined the documentary evidence that was before me at the reconvened hearing on January 29, 2010 and having considered the evidence of the process server in light of the tenant's daughter's challenge against service, I find that, in both instances, proper service was made.

Therefore, I confirm my original decision of January 29, 2010 and reinstate the Order of Possession, issued at that time and suspended pending the present Review Hearing.

The tenant's daughter stated that neither she nor her mother who is terminally ill have any interest in regaining possession of the rental unit but she merely wishes access to the unit to remove her mother's belongings.

Counsel for the landlord stated that he had been attempting to secure from the tenant's daughter written authorization from her mother to release the property in question to the

daughter as storage of it had burdened the landlord who by now had lost three months rent.

The daughter promised to provide the written authorization without delay and was advised that failure to do so would result in the landlord having to treat it as abandoned in compliance with the *Regulations* under the *Residential Tenancy Act*.

Conclusion

I hereby order that the Order of Possession granted January 29, 2010 is reinstated.

March 23, 2010