



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for a monetary order and an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent only. The tenant did not attend.

At the outset of the hearing the landlord's agent indicated that she had served the Notice of Hearing documents to the tenants' daughter who lives in the rental unit. The agent was unsure of the daughter's age but thought she might be 17 years old.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Analysis

Section 89 of the *Act* requires that applications for dispute resolution must be served to the tenant by:

1. Leaving a copy with the person;
2. Sending a copy by registered mail to the address at which the tenant resides;
3. Sending a copy by registered mail to a forwarding address provided by the tenant; or
4. As ordered by the director.

By the landlord's testimony the application was served to the tenants' daughter, this does not comply with Section 89 in regards to the monetary dispute by the landlord.

If the application by the landlord is for an order of possession, in accordance with Section 90, the notice of hearing documents must be served to the tenant by:

1. Leaving a copy with the tenant;

2. Sending a copy by registered mail to the address at which the tenant resides;
3. Leaving a copy at the tenants' residence with an adult who apparently resides with the tenants;
4. Attaching a copy to a door or other conspicuous place at the address that the tenant resides; or
5. As ordered by the director.

By the landlord's testimony the application was served to the tenants' daughter who is not considered an adult for the purposes of service and as such this service does not comply with Section 90 in regards to the order of possession.

Conclusion

As a result, I find the tenants were not served notice of this hearing in accordance with the *Act*, I therefore, dismiss the landlord's application in its entirety, 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: May 10, 2010.

Dispute Resolution Officer