



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNR

MNDC

MNSD

OPB

OPC

OPR

FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for rent owed, loss of rent and damages and to retain the security deposit. The application also indicated that the landlord was seeking an Order of Possession based on Unpaid Rent, an Order of Possession for Cause.

Preliminary Issue

The landlord testified that the landlord sent the hearing package by registered mail to an address where the tenant was working as the tenant failed to comply with the Act by providing a forwarding address where he was to reside.

Because the landlord was seeking a monetary order, proper service of the Application to the tenant would need to be in compliance with Section 89 of the Act which states that an application for dispute resolution, when required to be

served by the landlord to the tenant, must either be given directly to the person or sent by registered mail to the address at which the person resides or to a written forwarding address provided by the tenant. In this instance the Notice of Hearing was sent by registered mail to the tenant's employer's business address instead of to where the tenant lived.

The burden is on the Applicant to prove that the service was within the above provisions. As the landlord served the documents to an address that was not that of the tenant's current residence, I find that this would not meet the definition of service by registered mail to the "*address at which the person resides*" and is therefore not valid service under the Act.

Given the above, the matter under dispute cannot proceed because the landlord has not proven that the tenant was properly served and I therefore have no choice under the Act but to dismiss this application with leave to reapply at a later date should the landlord wish to do so, once a valid service address has been located for the respondent.

Conclusion

Based on evidence and testimony, I hereby dismiss this application with leave to reapply.

June 2010

Date of Decision

Dispute Resolution Officer