

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was scheduled to hear the landlord's application for a Monetary Order and Order of Possession for unpaid rent. The tenant did not appear at the hearing. The landlord was asked to prove service of hearing documents upon the tenant. The landlord testified she did not serve the tenant with hearing documents and that her agent likely served the tenant. The landlord did not know when, where or how service of the hearing documents took place and was only able to supply information with respect to service of a Notice to End Tenancy.

As the landlord failed to prove service of the hearing documents, I dismissed the landlord's application with leave to reapply. The landlord may make another Application for Dispute Resolution and serve it upon the tenant within the time limits imposed by the Act.

For further information I provide an excerpt of Residential Tenancy Policy Guideline 12 which provides, in part:

Where the respondent does not appear at an arbitration hearing, the applicant must be prepared to prove service under oath. The person who actually served the documents must either:

- be present at the hearing, or
- have sworn an affidavit of service or a statutory declaration which is sworn before either a Notary Public or a Lawyer, and which is given to the arbitrator at the hearing

Proof of service personally should include the date and time of service, where the person was when served, and the name of the person served.

Proof of service by registered mail should include the original receipt given by the post office and should include the date of service, the address of service, and

that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service.

Failure to prove service may result in the matter being dismissed, or dismissed with leave to reapply. Adjournments to prove service are given only in unusual circumstances.

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: July 20, 2010.

Dispute Resolution Officer