

DECISION

Dispute Codes OPR MNSD MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent, a Monetary Order to keep the security deposit, for unpaid rent or utilities, and to recover the cost of the filing fee from the Tenant for this application.

Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent under section 55 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order a) to keep the security and or pet deposit, and b) for unpaid rent or utilities, under sections 38, 67, and 72 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified service of the Notice of Dispute Resolution packages were not sent to the Tenant because the Tenant had vacated the rental unit prior to the Landlord receiving the hearing packages that were created August 9, 2010. The Tenant did not provide the Landlord with a forwarding address.

Analysis

The evidence supports the Notice of Dispute Resolution packages were not sent to the Tenant; therefore I find that service of the Notices of Dispute Resolution were not effected in accordance with Section 89 of the *Residential Tenancy Act*.

To find in favour of an application for a monetary claim, 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 Landlord's claim, with leave to reapply.

As the Landlord has not been successful with this application, I find that she is not entitled to recover the cost of the filing fee from the Tenant.

Conclusion

I HEREBY DISMISS the Landlord's claim, 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: September 28, 2010.

Dispute Resolution Officer