



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and well as to recover the filing fee for this proceeding.

The Landlord said that the Tenant moved out of the rental unit on July 22, 2010 however he came to the property from time to time to visit his mother who resides in another suite of the rental unit. Consequently, the Landlord said that on August 11, 2010, he posted a copy of the Application and Notice of Hearing (the "hearing package") on the rental unit door. The Landlord said he was advised by the Tenant's mother that the Tenant removed the hearing package.

Section 89 of the Act says that an Application for Dispute Resolution may be served on a Tenant by posting it to the door **at the address where the Tenant resides**. As the Tenant was no longer residing at the rental unit on August 11, 2010, however, I find that the Tenant was not properly served with the Landlord's hearing package in this matter. Furthermore, s. 89(2) of the Act says that an application for a monetary order must be served on a Tenant either in person or by registered mail. As the Tenant was not properly served with the Landlord's application for a Monetary Order for unpaid rent, that part of his claim is dismissed with leave to reapply. As the tenancy has ended, the Landlord's application for an Order of Possession is dismissed without leave to reapply.

If a Landlord is unable to locate a Tenant because the Tenant is avoiding service, a Landlord may apply under s. 71 of the Act for an Order permitting him to serve the hearing package in another way (ie. an Order for substitutional service).

Conclusion

The Landlord's applications for an Order of Possession and to recover the filing fee for this proceeding are dismissed without leave to reapply. The Landlord's application for unpaid rent is dismissed 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 23, 2010.

Dispute Resolution Officer