



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNR, OPR

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession and a monetary Order for unpaid rent.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the rental unit on September 20, 2010. The Landlord cited a Canada Post tracking number to corroborate this statement.

The Landlord stated that the Tenant vacated the rental unit "sometime in August". He stated that he called the Tenant several times but the Tenant has not provided him with a forwarding address and that the Tenant has not returned to the rental unit to pay the outstanding rent.

Analysis

The purpose of serving the Application for Dispute Resolution to a tenant is to notify them that a dispute resolution proceeding has been initiated and to give a tenant the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) stipulates, in part, that a landlord must serve a tenant with an application for dispute resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant; or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

There is no evidence that the Tenant was personally served with the Application for Dispute Resolution, therefore I find that the Tenant was not served in accordance with section 89(1)(a) of the *Act*.

The evidence shows that the Tenant had vacated the rental unit by the time the Landlord sent the Application for Dispute Resolution to the rental unit. I cannot, therefore, conclude that the Tenant was served in accordance with section 89(1)(c) of the *Act*.

As the Tenant did not provide the Landlord with a forwarding address at the end of this tenancy, I cannot conclude that the Tenant was served in accordance with section 89(1)(d) of the *Act*.

There is no evidence that the director authorized the Landlord to serve the Application for Dispute Resolution in an alternate manner, therefore I find that the Tenant was served in accordance with section 89(1)(e) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenant received the Application for Dispute Resolution, therefore I cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

Conclusion

Having found that the Landlord has failed to prove service of the Application for Dispute Resolution, I hereby dismiss the Landlord's Application for Dispute Resolution, 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: October 20, 2010.

Dispute Resolution Officer