



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPT, CNC, & O

Introduction

This hearing dealt with the tenant's application for Dispute Resolution. The tenant is seeking to have a notice to end tenancy set aside and is seeking an Order of Possession for the rental unit. The landlord did not appear for the hearing.

Service Requirements

Sections 88 and 89 of the *Act* set out the ways in which documents under the *Act* are to be given to the other party. The purpose of serving documents is to notify the person(s) of applications being made for Dispute Resolution. Failure to serve documents properly can result in an application for Dispute Resolution to be dismissed.

Issues(s) to be Decided

Has the tenant provided sufficient evidence to determine that the landlord was served with notice of this application and hearing?

Background and Evidence

The tenant provided evidence that the landlord was served with notice of this application and hearing by registered mail on October 12, 2010. The tenant provided a photocopy of the front of the registered mail package which was returned to the tenant. The photocopy shows that the document was stamped by Canada Post on October 12, 2010. There is also a stamp used by Canada Post which indicated that the registered package was returned to the sender because the provided address was moved, address unknown.

The tenant submitted that the registered package was rejected by the landlord. I note that the front of the envelop has the receiver address crossed out and a hand written word: refused.

The tenant provided no other evidence to demonstrate that the address of the landlord was an accurate or correct address which was provided to the tenant by the landlord. Usually the landlord provides an address for service on the tenancy agreement.

Analysis

Section 88(c) provides that documents can be served to a landlord by sending them by an address where the person resides or to an address where the landlord carries on business as a landlord.

I accept from the evidence provided that the registered mail package sent by the tenant was accepted by Canada Post and that delivery was attempted. However, I also accept the stamp from Canada Post, on the envelop, which states that the package could not be delivered because the address provided was moved or unknown. There is no evidence that the landlord was ever notified of the registered package. Rather, the package was returned to the tenant.

In the absence of any other evidence from the tenant to demonstrate that the documents were sent to a valid address or that the tenant attempted to serve the documents in another manner allowed under the *Act*, I find that the tenant has failed to serve the landlord with notice of this application for Dispute Resolution and hearing.

Conclusion

I dismiss the tenant's application with leave to re-apply as I have determined that the tenant has failed to serve the landlord with notice of this application and hearing pursuant to section 88 of the *Act*.

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 25, 2010.

Dispute Resolution Officer