



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, OPB, ND, MNR, FF

Introduction

This hearing was scheduled to hear the landlord's application for Order of Possession for unpaid rent and breach of the tenancy agreement; for a Monetary Order for unpaid rent and damage to the rental unit; and, recovery of the filing fee. The tenants did not appear at the hearing. The landlords testified that the tenants were served with the landlord's application and notice of this hearing via registered mail sent November 4, 2010 and by giving copies of the hearing documents to the tenant's mother and ex-wife. The landlords also testified that on November 2, 2010 the landlords found the rental unit vacant.

Dispute resolution proceedings are based on the principles of natural justice. Natural justice requires that a respondent be informed of the nature of the claim and the monetary amount sought against them by the applicant. This is one of the many purposes of the Application for Dispute Resolution and the Notice of Hearing. Accordingly, the Act requires that the applicant serve the respondent with notice of dispute resolution hearing and the Application for Dispute Resolution in a manner that complies with section 89 of the Act.

Section 89(1) of the Act provides for service of applications dealing with monetary claims. It provides that a landlord may serve a tenant by personal delivery or registered mail. When registered mail is chosen as the method of service the registered mail must be sent to either the tenant's address of residence or the forwarding address provided by the tenant.

When a respondent does not appear at a hearing, the applicant must be able to prove service. When registered mail is used, the applicant should provide a copy of the registered mail receipt indicating the date of mailing, the address of mailing and verification the address is the respondent's residence or forwarding address.

In light of the above, I find the landlords failed to establish that the tenants were served in a manner that complies with the requirements of the Act. Therefore, I dismiss this application with leave to reapply.

The landlords are at liberty to file another application within two years of the tenancy ending in order to sufficiently serve the tenants.

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: November 26, 2010.

Dispute Resolution Officer