

Decision

Dispute Codes: MNR, MND, MNDC, SS, FF

Introduction

This hearing was scheduled in response to the landlord's application for a monetary order as compensation for unpaid rent / compensation for damage to the unit / compensation for damage or loss under the Act, regulation or tenancy agreement / permission to serve documents or evidence in a different way than required by the Act / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

Previously, by way of a direct request proceeding on April 16, 2010, an order of possession and a monetary order were issued in favour of the landlord in relation to this same tenancy.

Thereafter, by decision dated July 26, 2010, the landlord was granted permission to serve the tenant with the application for dispute resolution and notice of hearing (the "hearing documents") in a different way than required by the Act. Following from this, on July 27, 2010 the landlord personally served the hearing documents on another employee at the tenant's workplace ("Mr. J.") who undertook to deliver them to the tenant. The landlord stated that Mr. J. declined to provide the landlord with written confirmation of his having received the hearing documents, or of his having assured the landlord that he would give the hearing documents directly to the tenant.

Subsequently, the landlord submitted documentary evidence to the Residential Tenancy Branch on December 8, 2010. The landlord stated that he was unable to find an employee at the tenant's workplace who would take delivery of the documentary evidence and agree to deliver it to the tenant. Related to this, the landlord stated that another employee informed him that the tenant was no longer employed at that workplace and had not worked there for the past three months. The landlord stated that he does not believe this to be true. In the result, the landlord's documentary evidence was not served on the tenant in any manner.

Issue to be decided

- Whether the landlord's documentary evidence has been sufficiently served for the purposes of the Act

Analysis

Based on the affirmed / undisputed testimony of the landlord, I find that the hearing documents were sufficiently served on the tenant for the purposes of the Act, on or about July 27, 2010.

However, I also find that the landlord's documentary evidence which was later submitted to the Residential Tenancy Branch on December 8, 2010, is relevant to the proceedings, and that it has not been sufficiently served on the tenant for the purposes of the Act.

The landlord has the option of making an application for substituted service in order to serve the tenant with the hearing documents, in addition to all of the related documentary evidence on which the landlord intends to rely.

Conclusion

The landlord's application is hereby dismissed with leave to reapply.

DATE: December 15, 2010

Dispute Resolution Officer