



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

OPR, MNR, MNSD, MND, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows.

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damages to the unit – Section 67
3. An Order to keep the security deposit – Section 38
4. An Order of Possession for unpaid rent – Section 55
5. An Order to recover the filing fee for this application - Section 72.

The landlord attended the conference call hearing. The tenant did not. The landlord testified that the tenant vacated the rental. The tenant did not provide a forwarding address. Subsequent to the tenant's move the landlord filed for dispute resolution and sent the Notice of Hearing and application to the tenant by registered mail to the address vacated by the tenant in hopes of the tenant having placed a forwarding address with Canada Post. The landlord testified that the registered mail had been returned to the landlord as uncollected.

Section 89 of the Act states as follows (**emphasis for ease**)

Special rules for certain documents

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy **with the person**;

(b) if the person is a landlord, by leaving a copy with an
(c) by sending a copy by registered mail to the address at which the person **resides** or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail **to a forwarding address provided by the tenant**;

(e) **as ordered by the director** under section 71 (1)
[director's orders: delivery and service of documents].

Section 89 of the Act is deliberately designed to give credibility to the presumption of service if a party is served in accordance with the ways listed. I find the landlord's method of serving the tenant, although well intentioned to not be within the provisions established in the Act. As a result, I am not satisfied the tenant was served with notice of this hearing pursuant to Section 89 of the Residential Tenancy Act.

Therefore, I **dismiss** the landlord's application, but I do so with leave to reapply. None of the merits of this application were heard.

Conclusion

The landlord's application **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*.