



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes FF, MNR, MNSD, OPR

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

The Landlord’s agent appeared for the Hearing. The Tenant did not attend. The Landlord stated that as the Tenant had vacated the premises, an Order for Possession was no longer required. The Notice to end Tenancy and the Landlord’s Application for Dispute Resolution was served personally by the Landlord’s property manager who did not attend the Hearing. The Landlord’s agent was uncertain as to dates of service. The Landlord was also uncertain when the tenancy began.

Rule 3.3 of the Rules of Procedure provide that where a respondent does not attend a dispute resolution proceeding, the applicant must prove that the respondent was served as required under the Act. The person who served the documents must either attend the proceeding as a witness or, if this person is unavailable, the applicant may submit evidence of service through the submission of an affidavit of service.

Given the Landlord’s uncertainty, I do not accept that the Tenant was served with notice of hearing, pursuant to Section 89 of the *Residential Tenancy Act*.

I therefore dismiss the Landlord’s application, 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: March 09, 2011.

Residential Tenancy Branch