

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 2:13 p.m. in order to enable the tenant to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Service of Landlord's Notice and Application

The landlord said that he served a copy of his 10 Day Notice to End Tenancy for Unpaid Rent by handing it to the tenant on March 18, 2011. He provided no copy of this 10 Day Notice or his Residential Tenancy Agreement regarding this tenancy.

The landlord testified that he posted a copy of his application for dispute resolution on the tenant's door on March 24, 2011. He provided no witness to this posting or witnessed statement. He said that he knocked on the tenant's door to try to serve his application directly to the tenant but the tenant would not answer the door. He said that he could not send his application by registered mail as he did not have the tenant's proper mailing address. He did not have an Order of Substituted Service from the Residential Tenancy Branch.

Analysis – Service of Tenant's Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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 agent of the landlord;*
- (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 document]...*

The landlord provided no written evidence regarding this application, other than his application for dispute resolution.

I am not satisfied that the landlord has demonstrated that the tenant was properly served with the landlord's application for dispute resolution in accordance with section 89(1) of the *Act*.

Conclusion

I 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*.