



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR SS MNR O FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent, for substitute service, for a Monetary Order for unpaid rent or utilities, for other, and to recover the cost of the filing fee from the Tenant for this application.

Issues(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act*, regulation or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain an Order of Possession and a Monetary Order?
3. Is there a need to request substitute service of documents?

Background and Evidence

The Landlord testified that she believes the service of the Notice of Dispute Resolution packages were sent to the Tenant via registered mail. The Landlord was not able to provide testimony of the date or tracking information for service of the hearing documents.

She did confirm the Tenant vacated the rental property sometime around April 5th or 6th, 2011, and she has regained possession of the rental unit.

Analysis

The Landlord was not able to provide testimony to confirm service of the hearing documents. Therefore I cannot find that service of the documents was effected in accordance with the Act.

To find in favour of an application for a monetary claim, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I am not able to find that the service of documents has been effected in accordance with the Act, I dismiss the Landlord's claim, with leave to reapply.

As the Landlord has not been successful with his application, I find that she is not entitled to recover the cost of the filing fee from the Tenant.

Conclusion

I HEREBY DISMISS the Landlord's claim, 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: April 15, 2011.

Residential Tenancy Branch