



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPC, FF, O

Introduction

This hearing was scheduled for 9:00 a.m. to deal with the landlord's application for an Order of Possession for cause. The tenant did not appear at the hearing. The landlord appeared and testified that the tenant was served with the hearing documents by registered mail and the evidence package was served upon the tenant by regular mail and slid under the tenant's door. The landlord could not provide a registered mail tracking number or date of mailing during the hearing. The landlord testified that his office was not open until 10:00 a.m. and that he could obtain proof of the registered mail when the office opened.

I proceeded to hear from the landlord with caution that the landlord would have to fax me a copy of the registered mail receipt by noon of the same day as the hearing. Later that morning I received a fax from the landlord's office providing me with another copy of the evidence but no registered mail receipt was provided.

The following day the landlord faxed a letter to me advising that the hearing package had not been sent by registered mail as previously stated but that the hearing documents were sent to the tenant by regular mail and by sliding them under the tenant's door.

Service of an Application for Dispute Resolution must comply with the requirements of section 89 of the Act. Residential Tenancy Policy Guideline 12 provides further information on service requirements. The policy guideline provides that where a respondent does not appear at a hearing, the applicant must be prepared to prove service under oath. If service occurs by registered mail the application should provide proof of the registered mail at the time of the hearing. If service occurs by personal service or by posting the documents the person who actually served the documents is expected to be present at the hearing or provide a sworn affidavit or statutory declaration regarding service.

I find the landlord did not sufficiently prove service of the hearing documents upon the tenant in a manner that complies with the Act. Therefore, I have dismissed this 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: April 13, 2011.

Residential Tenancy Branch