



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, OPC, MNR, 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. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

The landlord attended the hearing, but the tenant did not. The landlord testified they served the tenant with the Notice of Hearing package by placing it under the tenant's door on December 23 or 24, 2011. The landlord did not employ any other method for service.

Section 89 of the Act, in part, states as follows (emphasis for ease)

Special rules for certain documents

89 (2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] **must** be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;

(d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;

(e) as ordered by the director under section 71 (1)

[director's orders: delivery and service of documents].

Section 89(2) of the Act is deliberately designed to support a presumption of service if a party is served in accordance with the ways listed. I find the landlord's method of serving the tenant is not within the provisions established in the Act. As a result, I am not satisfied the tenant was properly 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 potential 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*.

Dated: January 10, 2012

Residential Tenancy Branch