



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This participatory hearing was scheduled to hear a landlord's application for an Order of Possession and Monetary Order for unpaid rent pursuant to a decision issued January 5, 2012 under the Direct Request procedure.

The tenant did not appear at the hearing. The landlord had submitted evidence that the landlord's Application for Dispute Resolution was addressed to the tenant at the rental unit and sent via registered mail. The landlord testified at the hearing that the tenant does not reside at the rental unit. Rather, the tenant resides in California and the rental unit is occupied by the tenant's son. The landlord acknowledged that they have the tenant's address for her residence in California. I noted that on the tenancy agreement the only person identified as an occupant is not the named tenant.

Dispute resolution proceedings are based on the principles of natural justice. Natural justice requires that a respondent be informed of the nature of the claim and the monetary amount sought against them by the applicant. This is one of the many purposes of the Application for Dispute Resolution and the Notice of Hearing. The Act requires that the applicant serve the respondent with the Application for Dispute Resolution in a manner that complies with section 89 of the Act.

If registered mail is used for service of an Application for Dispute Resolution section 89 provides that the application must be given in the following ways:

(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;

[my emphasis added]

In this case, I heard the registered mail was sent to the tenant at the rental unit but I also heard the tenant does not reside at the rental unit. Nor, was I provided evidence

that the tenant has given the landlord the rental unit address as her forwarding address. Rather, I heard that the tenant gave the landlord her address in California. Therefore, I find that by sending the landlord's Application for Dispute Resolution to the rental unit the tenant has not been served with the landlord's Application for Dispute Resolution in a manner that complies with section 89 of the Act.

The landlord also submitted evidence that the 10 Day Notice was served by posting on the rental unit door. As further information for the landlord section 88(g) of the Act provides for service of documents by posting. It provides that a document may be given:

(g) by attaching a copy to a door or other conspicuous place at the address at which the person resides

[my emphasis added]

In accordance with section 88(g), if a tenant does not reside at the rental unit, then posting a document on the rental unit door may be found to be ineffective service.

In light of the above, I dismiss this application in its entirety due to failure to serve documents upon the tenant in a manner that complies with the Act. This application is dismissed with liberty to re-apply.

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 24, 2012.

Residential Tenancy Branch