



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 3:11 p.m. in order to enable them to connect with this hearing scheduled for 3:00 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on January 6, 2012. The landlord's agent testified that she witnessed his posting of this Notice. The landlord also testified that the tenants abandoned the rental unit by February 11, 2012, without leaving a forwarding address. As this tenancy has ended and the landlord has possession of the rental unit, the landlord withdrew his application for an Order of Possession. The landlord testified that he posted a copy of his dispute resolution hearing package on the tenants' door on January 23, 2012. The landlord's agent testified that she witnessed the landlord post this package on the tenants' door.

Issues(s) to be Decided

Has the landlord served the tenants with a copy of the dispute resolution hearing package in accordance with the *Act*? If so, is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This six-month fixed term tenancy commenced on December 1, 2011. Monthly rent was set at \$725.00, including parking, payable in advance on the first of the month. The landlord continues to hold the tenants' \$357.50 security deposit.

The landlord applied for a monetary award of \$1,450.00, to compensate him for the tenants' failure to pay their monthly rent for January and February 2012.

Analysis

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution to obtain a monetary Order:

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 has not served the tenants in a manner required by section 89(1) of the *Act*. As I am not satisfied that the tenants have been properly served with the landlord's application for dispute resolution, I dismiss the landlord's application for dispute resolution with leave to reapply.

Conclusion

The landlord's application for an end to this tenancy and an Order of Possession is withdrawn.

I dismiss the landlord's application for a monetary Order 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: February 14, 2012

Residential Tenancy Branch