



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and for unpaid rent; to keep the security deposit; and to recover the filing fee associated with this application.

At the outset, the landlord testified that on April 7, 2012, she served the tenant with the Notice of a Dispute Resolution Hearing by posting a copy of the application package on the tenant's door.

Section 89(1) of the *Residential Tenancy Act* states:

*"An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents].*

Analysis

Posting a notice to a dispute resolution hearing is not recognized under the Act as a proper method of service. Based on the landlord's testimony and her documentary evidence, I am satisfied that the tenant was not served in accordance with the Act. In the interest of administrative fairness, the tenant is entitled to be served properly and to an opportunity to be heard at a hearing. I am not persuaded that the tenant had knowledge of the date scheduled for this hearing.

Conclusion

The landlord's application is dismissed with leave to reapply. Take notice that a leave to reapply is not an extension to any applicable limitation period.

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 23, 2012.

Residential Tenancy Branch