



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR,

Introduction

This is the Landlords' application for an Order of Possession and Monetary Order for unpaid rent. This matter was reconvened from a Direct Request Proceeding which took place on March 19, 2012. Pursuant to the provisions of Section 55(4) of the Act, a Direct Request Proceeding takes place on the Landlords' documentary evidence only. On March 19, 2012, the Dispute Resolution Officer adjourned the Landlords' Application to a participatory Hearing because he found insufficient documentary evidence to support the amount of unpaid rent as claimed by the Landlords. The Dispute Resolution Officer did not require the Landlords to serve the Tenant with Notice of the reconvened Hearing, and advised that the "applicant and respondent will be notified by mail as to the hearing date".

The Landlords' agent gave affirmed testimony at the reconvened Hearing.

Preliminary Matters

The Landlord's agent testified that the Tenant moved out of the rental unit on or about March 20, 2012 and that the Landlords have taken back possession of the rental unit. Therefore an Order of Possession is no longer required and this portion of the Landlords' application is dismissed.

The Hearing was scheduled to be heard by teleconference on April 11, 2012, at 1:30 p.m. The teleconference remained open until 1:45 p.m. but the Tenant did not sign into the Hearing.

Notice of the reconvened Hearing was sent out by the Residential Tenancy Branch to both parties on March 20, 2012. Section 90 of the Act provides that documents sent by mail are deemed to be received 5 days after mailing. The Tenant's copy of the Notice was mailed to the rental unit. The Landlords' agent stated that the Tenant moved out of the rental unit on or about March 20, 2012, and therefore I am not satisfied that the Tenant received notification of the Hearing date and time.

Therefore, the Landlords' application for a Monetary Order is dismissed with leave to reapply.

Conclusion

The Landlords' application for an Order of Possession is dismissed.

The Landlords' application for a Monetary Order for unpaid rent 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: April 13, 2012.

Residential Tenancy Branch