



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNSD, MNDC, O, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, to keep all or part of the security deposit, money owed or compensation due to damage or loss, other and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by posting the documents to the door. I found that the tenant had not been properly served with notice of the landlord's claim and the date and time of the hearing.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find on a balance of probabilities that the landlord has not met the burden of proving that they have grounds for entitlement to an order of possession to keep all or part of the security deposit or for a monetary order for loss, cleaning costs and damages.

The landlord stated that the application for dispute resolution and notice of hearing documents were posted to the tenant's door and this method of service does not comply with the *Act*. Therefore as the landlord has not met the service provisions the landlord could not proceed with their claim.

It should also be noted that at 1:32PM after being advised of the incomplete service that the landlord disconnected from the conference call hearing. The conference call remained open until 1:40PM however neither the landlord or tenant connected into the hearing.

Residential Tenancy Branch **Fact Sheet 119 Service Provisions** speaks to:

Special documents s. 82 MHPTA and s. 89 RTA.

The special documents listed in the *Manufactured Home Park Tenancy Act* and the *Residential Tenancy Act* are:

- an **Application for Dispute Resolution, including the Notice of Hearing letter and any evidence filed with the application** (Applications for Dispute Resolution must be given to the other party within three days of receiving the Hearing Package from the Residential Tenancy Branch [RTB])

These special documents must be served in one of the following ways:

- by giving a copy **directly to the person** named on the tenancy agreement (who is served on the date it is given to the party)
- **if the person is a tenant, by sending a copy by registered mail** to the address of the rental unit if the tenant still lives there or to the forwarding address that was provided by the tenant (the person is considered to have been served on the fifth day after mailing).

As the landlord has not been successful in their application the landlord is not entitled to recovery of the \$50.00 filing fee.

Conclusion

The landlord's application is dismissed in its entirety 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: June 11, 2012

Residential Tenancy Branch