



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPT, AAT, O

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Applicant applied for an Order of Possession, for authority to access the rental unit and for "Other".

The Tenant stated that he asked a neighbor, whom he knows only as "A" to serve the Landlord with the Application for Dispute Resolution and Notice of Hearing. He stated that "A" personally served the Application for Dispute Resolution and Notice of Hearing to the Landlord on July 15, 2012.

The Tenant submitted no documentary evidence to corroborate his testimony that "A" personally served the Application for Dispute Resolution and Notice of Hearing to the Landlord on July 15, 2012. He asked that "A" be called as a witness but "A" was not available by telephone when I attempted to connect him with the teleconference.

The Tenant called the witness in an attempt to prove service but she was only able to state that she knows "A" went to the trailer to serve the Landlord. She did not witness "A" serve documents to the Landlord on that date.

Preliminary Matter

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a tenant files an Application for Dispute Resolution, the tenant has the burden of proving that the landlord was served with the Application for Dispute Resolution in compliance with section 89 of the *Residential Tenancy Act (Act)*.

I find that the Tenant has submitted insufficient evidence to establish that "A" personally served the Landlord with the Application for Dispute Resolution and Notice of Hearing. In reaching this conclusion I was heavily influenced by the absence of any direct or documentary evidence from "A" that corroborates the testimony of the Tenant. I cannot conclude that these documents were served on the basis of the hearsay evidence of the Tenant or his witness.

Issue(s) to be Decided

As the Tenant has failed to establish that the Landlord was served with the Application for Dispute Resolution and the Notice of Hearing, there are no issues to be decided.

Background and Evidence

As the Tenant has failed to establish that the Landlord was served with the Application for Dispute Resolution and the Notice of Hearing, no evidence was accepted in support of the Application for Dispute Resolution.

Conclusion

As the Tenant has failed to establish that the Landlord was served with the Application for Dispute Resolution and the Notice of Hearing, I dismiss the Application for Dispute Resolution, 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: July 26, 2012.

Residential Tenancy Branch