



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 was convened as the result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and for recovery of the filing fee.

The landlord appeared and gave affirmed testimony.

As a preliminary issue, the landlord stated that the tenants have vacated the rental unit and that he no longer required an order of possession. As a result, I have amended his application to exclude a request for an order of possession and dealt only with a request for a monetary order for unpaid rent and for recovery of the filing fee.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and to recover the filing fee?

Background and Evidence

The tenants did not appear at the hearing.

The landlord testified that the tenants had vacated the rental unit by the time he was able to attend there to serve them the Notice of Dispute Resolution Hearing and the application for dispute resolution (the "hearing package"). The landlord stated that he served the hearing package to the male tenant's sister, who was cleaning the rental unit.

Analysis

Section 89 of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondent (the tenants in this case) in person, by

registered mail to the address at which the person resides, or if a tenant, by registered mail to the forwarding address provided by the tenant.

Conclusion

The tenants' submission of evidence does not sufficiently prove the tenants were served the hearing package in a manner required by the Act.

Due to the failure of the landlord to serve the tenants his application for dispute resolution in a manner required by the Act, I dismiss the landlord's application, with leave to reapply.

As the landlord has not been successful with his application, I find that he is not entitled to recover the cost of the filing fee from the tenants and I dismiss his request for recovery of the filing fee.

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 10, 2012.

Residential Tenancy Branch