



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenant's security deposit in partial payment of those amounts.

The Landlord said he served the Tenant on August 24, 2012 with the Application and Notice of Hearing (the "hearing package") by registered mail. According to the Canada Post online tracking system, the Landlord's hearing package was sent by "Xpress Post" and was "delivered" on August 28, 2012 however there is no indication of whether the package was delivered to the Tenant because a signature option was not requested by the Landlord.

Section 89 of the Act says an Application for Dispute Resolution (for a Monetary Order) must be served on a Tenant either in person or by registered mail. I find that the Landlord's hearing package was not sent by registered mail. Given that the Tenant did not attend the hearing and in the absence of any evidence that the Landlord's hearing package was delivered to the Tenant on August 28, 2012, I find that there is insufficient evidence to conclude that the Tenant was served with it. Consequently, the Landlord's application in this matter is dismissed on the terms set out in the Conclusions section below.

Conclusion

The Landlord's applications for an Order of Possession, for unpaid rent and to keep the Tenant's security deposit are dismissed with leave to reapply. The Landlord's application to recover the filing fee for this proceeding is dismissed without 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: September 24, 2012.

Residential Tenancy Branch