



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction, Background and Evidence

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's agent appeared and gave affirmed testimony. The tenant did not appear.

When questioned, the landlord said the tenant was served the application and Notice of Hearing (the "Hearing Package") on August 20, 2012, by the landlord's agent's father, who was not present.

Further the landlord's agent said that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on August 8, 2012, again by the landlord's agent's father.

I asked the landlord's agent if his father was available for questioning, and he replied that his father was not available.

There was no evidence submitted by the landlord other than the Notice.

Analysis

Residential Tenancy Branch Rules of Procedure 3.3 states that if a respondent, the tenant in this case, does not attend a hearing, the applicant, the landlord in this case, must prove that the respondent was served with the Notice of Hearing.

The rule goes on to say that the person who served the documents must either attend the dispute resolution hearing and if that person is not available to attend, the applicant may submit as evidence an affidavit of service, sworn by the person who served the documents, informing the Dispute Resolution Officer how the service was accomplished.

In this case, the person serving the tenant with the Notice of Hearing did not attend the conference, was not available to be called into the conference and did not submit an affidavit of service.

Conclusion

Without conclusive proof that the tenant was served with the Notice of Hearing pursuant to the Residential Tenancy Branch Rules of Procedure, I find I am unable to proceed with landlord's application.

I therefore dismiss the landlord's application.

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 20, 2012.

Residential Tenancy Branch