



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause pursuant to section 55;
- a monetary order for unpaid rent and for damage to the unit, site or property pursuant to section 67;
- authorization to recover his filing fee for this application from the tenants pursuant to section 72; and
- other remedies as described by the landlord in his application as an Order of Possession for the tenant's failure to abide by the terms of their mutual agreement to end this tenancy.

The tenants did not attend this hearing, although I waited until 1:45 p.m. in order to enable them to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Preliminary Issues- Service of Documents

The landlord testified that he handed the female tenant a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) entered into written evidence on October 31, 2012. I am satisfied that the landlord served the 1 Month Notice in accordance with the *Act*.

The landlord testified that he sent the tenants a copy of his dispute resolution hearing package by registered mail on January 10, 2013. As the landlord lives in the rental unit above the tenants, he testified that there is only the one mailbox for this rental unit. He said that he left the registered mail notice from Canada Post for the tenant(s) in the location where he leaves their mail.

During the hearing, the landlord searched for the Canada Post Tracking Number to confirm his registered mailing of his hearing package to both tenants. After conducting a search of his wallet and his vehicle, he was unable to locate the Canada Post

Tracking Number. He said that he must have left this document at work, but could locate it later that day and fax it to me, if necessary.

Given the landlord's testimony regarding the circumstances regarding the receipt of the Canada Post notice to the tenants, I directed the landlord to forward the Canada Post Tracking Number to the Residential Tenancy Branch (RTB) by fax by the end of the day on the hearing date. I advised him that unless he provided this information, which should have been available by the time of the hearing, I would have to base my decision on the service of his hearing package to the tenants on the evidence before me.

The RTB did not receive any fax from the landlord by the end of the work day on February 1, 2013, nor was any fax received by him by the beginning of the next business day on February 4, 2013. Without this evidence, I find that the landlord has not provided sufficient evidence that he has served the tenants with a copy of his dispute resolution hearing package in a way required by section 89 of the *Act*. For this reason, I dismiss the landlord's application with leave to reapply.

Conclusion

I dismiss the landlord's application 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: February 04, 2013

Residential Tenancy Branch

