



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FIGUEIRA HOLDINGS LTD
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes: MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated February 9, 2013, a monetary order for rent owed and the cost of filing the application.

The landlord was in attendance, but the tenant did not appear.

Preliminary Matter

At the outset of the hearing the landlord testified that they had served the Notice of Dispute Resolution Hearing on the Executor of the tenant's estate, and also served a package addressed to the Estate of the late tenant itself, by sending both of the packages through registered mail. The landlord testified that, both of the hearing packages were sent to the home address located in the Manufactured Home Park where the late tenant had resided prior to her death. The landlord testified that nobody is currently occupying the unit at present. The landlord testified that they have been corresponding with the executor of the estate by email and did not have an address for the executor, nor were they provided with any other address where they could serve the Estate of the tenant.

Sections 81 and 82 of the Manufactured Home Park Tenancy Act determine the method of service for documents. This is an application by the landlord seeking a Monetary Order under sections 60 and 82(1) of the Act which requires that the landlord serve the tenant as set out under Section 89(1). For a monetary claim, the documents must be served in one of the following ways:

(a) by leaving a copy with the person, (personal service);

(c) **by sending a copy by registered mail to the address at which the person resides**;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director. (my emphasis)

However, section 82(2) of the Act does permit an application by a landlord for a dispute under section 48 of the Manufactured Home Park Tenancy Act, for an *Order of Possession* only, to be served as above OR by attaching a copy to a door or other conspicuous place at the subject address which is in the possession of the tenant.

In this instance, I find that the landlord mailed the 2 Notice of Hearing packages; one to the Estate of the late tenant; and the other addressed to the Executor. Both of these packages were sent by registered mail using the rental site address, where nobody actually resided at that time.

In fact, the landlord confirmed that the Executor of the late tenant's estate resides out-of-province. Therefore, I find this not to be a valid service address for the Executor.

With respect to whether the rental site address is a valid service address for any mail sent to the Estate of the late tenant, I find that no evidentiary support was submitted to confirm that this address is the genuine service address for documents concerning the late tenant, served on the tenant's Estate.

Accordingly, I find that the landlord's application was not served in compliance with the Act and must be dismissed.

Conclusion

The landlord's application is dismissed with leave to reapply because of insufficient proof of adequate service under the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: March 27, 2013

Residential Tenancy Branch