



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MACDONALD COMMERCIAL REAL ESTATE SERVICES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on March 18, 2013, by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for: unpaid rent and to recover the cost of the filing fee from the Tenants for this application.

The Landlord affirmed that the Tenant was served copies of the application for dispute resolution and notice of hearing documents by registered mail on March 21, 2013. Canada Post tracking information was provided in the Landlord's evidence.

Issue(s) to be Decided

1. Has the Landlord proven service of the hearing documents in accordance with section 89 of the Act?
2. If not, should the Landlord's application be dismissed with or without leave to reapply?

Background and Evidence

The Landlord submitted documentary evidence which included, among other things, copies of: the tenancy agreement; a 10 Day Notice issued February 19, 2013; Canada Post receipts; a tenant ledger; and e-mails between the Landlord and Tenants.

The Landlord testified that the Tenants vacated the property by March 12, 2013, and that he served the notice of hearing documents on March 21, 2013 by registered mail to the rental unit address, nine days after they had regained possession.

Analysis

I accept that the Landlord regained possession of the rental unit as of March 12, 2013.

Section 89 of the Act provides that if documents are being served via registered mail they must be sent to the address where the tenant resides.

In this case, because the evidence supports the Landlord served the hearing documents several days after the Tenants vacated the rental unit I find that service has not been effected in accordance with the Act. Accordingly the Landlord's application for a Monetary Order is dismissed, with leave to reapply.

Conclusion

I HEREBY 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: April 16, 2013

Residential Tenancy Branch