



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, 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 unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 3:13 p.m. in order to enable him to connect with this teleconference hearing scheduled for 3:00 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's property manager (the property manager) testified that he handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on March 18, 2013. I am satisfied that the landlord served the 10 Day Notice to the tenant in accordance with the *Act*.

The landlord testified that the tenant vacated the rental unit on or about May 3, 2013, so there was no longer a need for an Order of Possession. The landlord and the property manager testified that the tenant did not provide them with his forwarding address when he moved.

Background and Evidence- Service of Application for Dispute Resolution

The property manager testified that he handed a copy of the landlord's dispute resolution hearing package to one of the tenant's business partners at the tenant's place of business on May 6, 2013. He testified that he obtained this address after obtaining a text message response from the tenant who told him that the property manager could serve him documents at that address. The property manager said that the business partner said that he would give the documents to the tenant.

Analysis – Service of Application for Dispute Resolution

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order:

89(1) An application for dispute resolution,...when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (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 under section 71(1) [director's orders: delivery and service of document]...*

The landlord has not served the tenant with a copy of the dispute resolution hearing package including notice of this hearing in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the landlord's application for dispute resolution.

Conclusion

I dismiss the landlord's application for dispute resolution 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: May 29, 2013

Residential Tenancy Branch

