



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ambassador Industries Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss; to retain all or part of the security deposit, and to recover the fee for filing an Application for Dispute Resolution.

The Tenant did not attend the hearing.

Issue(s) to be Decided:

The initial issue to be determined is whether the Application for Dispute Resolution and the Notice of Hearing were properly served to the Tenant.

Background and Evidence:

The Agent for the Landlord stated on May 16, 2013 she placed the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence under the door of the rental unit. She stated that the rental unit was vacated on May 17, 2013.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing is to notify a tenant that a dispute resolution proceeding has been initiated and to give the tenant the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89 of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;
or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

On the basis of the evidence presented by the Landlord, in particular the testimony of the Agent for the Landlord, I find that the Application for Dispute Resolution and the Notice of Hearing were not served by any of the methods outlined in section 89(1)(a) of the *Act*.

Section 89(2) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides; or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

On the basis of the evidence presented by the Landlord, in particular the testimony of the Agent for the Landlord, I find that the Application for Dispute Resolution and the Notice of Hearing were not served by any of the methods outlined in section 89(1)(a) of the *Act*.

I specifically note that leaving the documents under the door is not the same as attaching a copy of the documents to a door or other conspicuous place at the rental unit. I find it entirely possible that a person can overlook a document that has been placed under a door or the document can be lost, particularly when someone is in the process of moving.

The Landlord submitted no evidence to cause me to conclude that the Tenant received the Application for Dispute Resolution and Notice of Hearing. I therefore cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

Conclusion

As the Landlord has failed to establish that the Tenant was served with the Application for Dispute Resolution and Notice of Hearing, I dismiss the Landlord's application for an Order of Possession and a monetary Order, 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: June 11, 2013

Residential Tenancy Branch