



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sterling Management Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the tenant: CNR
For the landlord: OPR, MNR, FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenant applied for an order seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice").

The landlord applied for a monetary order for unpaid rent, an order of possession due to unpaid rent and for recovery of the filing fee.

The landlord appeared; the tenant did not appear despite the hearing for her own application for dispute resolution being scheduled for this time and date.

The landlord submitted that he served the tenant with the landlord's Application for Dispute Resolution and Notice of Hearing by registered mail on July 2, 2013. The landlord said that the address he used for service of the registered mail was the dispute address for the rental unit, listed by the tenant on her application for dispute resolution.

I will address my findings on the service of the landlord's Notice of Hearing later in this Decision.

Preliminary issue- In the absence of the tenant to present her claim, pursuant to section 10.1 of the Residential Tenancy Branch Rules of Procedure (Rules), I dismiss the tenant's application, without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation and to recover the filing fee?

Background and Evidence

In response to my question the landlord stated that the tenant vacated the rental unit on June 28, 2013.

The landlord agreed that when he served his Notice of Hearing and application package to the tenant by registered mail on July 2 to the rental unit address, the tenant did not live there, but he assumed the tenant had taken advantage of the mail forwarding system for Canada Post. The landlord additionally said that the tenant left with no forwarding address being provided.

Analysis and Conclusion

Section 89 of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondent (the tenant in this case) by leaving it with the person, by sending a copy by registered mail to the address at which the person resides or if a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant.

In the case before me, I find the landlord submitted evidence that the address used by the landlord to serve the tenant by registered mail was an address at which the tenant no longer resided.

I therefore find the landlord did not serve the tenant with their application for dispute resolution and Notice of Hearing in accordance with section 89, and I therefore dismiss the landlord's application, with leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

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: July 25, 2013

Residential Tenancy Branch