



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was originally dealt with by a direct request proceeding in which the landlord applied on May 21, 2013. At that proceeding held on May 30, 2013 (which is a non participatory hearing) the landlord was awarded an Order of Possession and a Monetary Order for unpaid rent. The tenant applied for a review of the decision and Orders on June 19, 2013 on the basis of not having been served the hearing notice or 10 Day Notice and for fraud. The tenant was successful with her review application and the Orders were suspended until they could be reheard at a review hearing scheduled for July 31, 2013.

The review hearing went ahead as scheduled however neither party appeared and the original Orders were confirmed. On September 05, 2013, the tenant applied for a review of that hearing on the basis that the tenant had not been provided a copy of the review decision or Notice of hearing letters for the tenant, and for the tenant to serve to the landlord as they had been sent to the tenant's old address. The tenant was successful with her application for review and the orders were suspended until they could be reheard at the hearing scheduled for today's date October 22, 2013.

The tenant attended the hearing today and testified that the landlord was served with the Notice of hearing letter; the tenants review applications and evidence and the Review decision by registered mail on October 01, 2013. The tenant was permitted to fax in evidence of the registered mail service order to settle this matter.

At the review hearing held today the landlord did not appear despite having been served the Notice of Hearing by registered mail. When a Notice is served in this manner to the landlords address the landlord is considered to have received the notice five days after it was posted.

The hearing started as scheduled at 1.30 p.m. The line remained open for 10 minutes however no one for the landlord dialed into the call. Based on this I find that the landlord has failed to present the merits of their application and the application is dismissed without leave to reapply.

Conclusion

The landlord's application is dismissed without leave to reapply.

In accordance with s. 82(3) of the *Residential Tenancy Act* which states that following the review, the director may confirm, vary or set aside the original decision or order; I find as the landlord as failed to appear at the hearing today that the Orders issued on May 30, 2013 for an Order of Possession and a Monetary Order are Set aside.

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: October 23, 2013

Residential Tenancy Branch

