



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction and Preliminary Matter

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord attended; the tenant did not attend the telephone conference call hearing.

In response to my question regarding service of his application for dispute resolution and the Notice of Hearing, the landlord testified that he served the tenant "about 5 days later;" additionally, the landlord failed to provide any information as to the method of delivery used to serve the tenant with his application and Notice of Hearing.

Analysis and Conclusion

Section 89(1) 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.

Section 59(3) of the Act states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

In the case before me, as the landlord could not provide method used to serve the tenant his application for dispute resolution and notice of this hearing, he failed to convince me that he served the tenant in a manner required by section 89(1) of the Act.

I also find that service of the landlord's application and Notice of Hearing were not effected in accordance with section 59(3) of the *Residential Tenancy Act* as the landlord submitted, without certainty, that he served the tenant five days later.

I therefore find that the landlord failed to submitted sufficient evidence that he complied with sections 59(3) and 89(1) of the Act regarding service of his application to the respondent and, as a result, I dismiss the landlord's application, with leave to reapply.

Leave to reapply is not an extension of 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* and is being mailed to both the applicant and the respondent.

Dated: April 02, 2014

Residential Tenancy Branch

