



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPC, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord, filed on April 16, 2014 in which the applicant landlord was requesting an Order of Possession and a monetary order based on a Ten Day Notice to End Tenancy for Unpaid Rent Served on April 6, 2014.

Preliminary Matter

No documentary proof of service confirming service of the Notice of Hearing was submitted into evidence and the landlord was not able to provide verification with respect to how and when the Notice of Hearing package had been served on the tenant.

In addition to the above, audit notes show that the landlord failed to serve the hearing package within the required 3 days specified under the Residential Tenancy Rules of Procedure. Notes indicate that the documents still had not been served by April 25, 2014.

Section 89 of the Act states that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, must be given to one party by another, 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;

Section 59 states that an application for dispute resolution must be in the approved form, include full particulars of the dispute that is to be the subject of the dispute resolution proceedings, and be accompanied by the fee prescribed in the regulations. 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, or within a different period specified by the director. (my emphasis)

Based on the above, I find that this matter cannot proceed because the landlord was not able to sufficiently prove that the tenant was served with the Notice of Hearing in accordance with the Act.

Therefore I hereby dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application did not proceed due to insufficient proof of service and is dismissed 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 09, 2014

Residential Tenancy Branch

