Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WALNUT MANOR APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   MNR, FF

Introduction

This hearing dealt with an application from the landlord pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:45 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Service of Landlord's Application

The landlord testified that he served the tenant with his application for dispute resolution package by regular mail and e-mail. The landlord stated that he spoke with the tenant and she indicated that she would not be appearing at this hearing.

Analysis – Service of Landlord's Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order:

89(1) An application for dispute resolution...when required to be given to one party by another, must be given 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;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71(1) [director's orders: delivery and service of documents]...

The landlord has not served the tenant in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the landlord's application for dispute resolution.

When I informed the landlord that I would be dismissing his application with leave to reapply as the application for dispute resolution was not served in accordance with section 89(1), one method of which is by registered mail rather than regular mail, the Landlord disconnected from the hearing at approximately 9:40 a.m. I waited an additional five minutes until 9:45 a.m. in order to enable him and the tenant to connect to the hearing.

Conclusion

I dismiss the landlord's application 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: October 29, 2014

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Residential Tenancy Branch