



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

CNC, OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession pursuant to Section 55 and a monetary order for rent owed, based on a Ten Day Notice to End Tenancy for Unpaid Rent.

The tenant applied for an order to cancel the One-Month Notice to End Tenancy for Cause.

Only the landlord appeared and stated that the tenant vacated the rental unit prior to the hearing. Therefore the tenant's request to cancel the One-Month Notice to End Tenancy for Cause and the landlord's request for an Order of Possession are moot.

It was determined that the hearing would proceed only with respect to the landlord's monetary claims.

Preliminary Matter

The landlord testified that the Notice of Hearing package was personally given to an adult person who confirmed that they then forwarded the documents to the tenant.

Sections 88 and 89 of the Act determine the method of service for documents.

Because the landlord had applied for a Monetary Order under section 67 of the Act, there is a mandatory requirement that the landlord serve the tenant as set out under Section 89(1) of the Act. This section states that the landlord must serve in one of the following ways:

(a) by leaving a copy with the person, (personal service);

(c) by sending a copy by registered mail to the address at which the person resides

In this case by giving the hearing package to a person other than the tenant, I find that the landlord served the documents in a manner not in compliance with the Act.

Having found that the landlord has failed to prove adequate service of the Notice of Hearing and Application for Dispute Resolution, I find that the landlord's application must be dismissed with leave to reapply.

Conclusion

The landlord's application is hereby 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: October 09, 2014

Residential Tenancy Branch

