



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing convened as a result of a Landlord's application for dispute resolution seeking an Order of Possession and a Monetary Order for unpaid rent.

The Landlord's agent, and son, P.W. appeared. The Tenants did not appear.

The Landlord's agent testified that he served the Tenant's by registered mail. He did not provide the receipt, but verbally provided the tracking number.

The Landlord's agent testified that he had attended 5 previous arbitrations. A review of the Residential Tenancy Branch hearings confirms the following previous arbitrations:

- November 21, 2013
- February 4, 2014
- April 16, 2014
- July 22, 2014
- September 24, 2014
- November 24, 2014

Both parties attended the November 21, 2013 hearing. The 10 Day Notice to End Tenancy was set aside as the Landlord had not signed the Notice.

The Landlord failed to attend the February 4, 2014 hearing which convened as a result of the Tenant's application to set aside the Notice to End Tenancy for unpaid rent. The Tenant's application was dismissed as they did not prove that the Landlord was served with the Tenant's application package as required by section 89 of the Act. Further, it was noted that the effective vacancy date on the Notice was December 15, 2013, and the Tenant's did not apply to dispute the Notice within the required time limit.

Both parties attended the April 16, 2014 hearing which was convened as a result of the Tenant's application to set aside a 10 Day Notice to End Tenancy for unpaid rent which alleged \$14,750.00 was due on February 8, 2014. The Tenant disputed the amounts claimed. The Landlord did not submit any documentary evidence in response to the Tenant's application and the Landlord's agent stated that he was not aware that he should provide documents in response to the Tenant's application. The Tenant's application was dismissed with leave to reapply as neither party submitted the required evidence. At this hearing, the Landlord was cautioned that if she wanted an Order of Possession or a Monetary Order, she would need to apply for dispute resolution and provide evidence to support the claims in the application. The Landlord's representative was told to contact the branch for information as to how to proceed.

Only the Landlord's agent appeared at the July 22, 2014 hearing. The Landlord's agent testified that he had not served the tenants with the Notice of Hearing as he was not aware of this essential requirement, although duly provided with this instruction. The Landlord's application was dismissed with leave to reapply.

At the September 24, 2014 hearing, only the Landlord's agent attended. Service of the hearing documents was considered and found to be effected by registered mail. The Landlord's agent did not submit the registered mail receipts, but verbally advised of the tracking number. The Landlord's application was again dismissed with leave to reapply as the Landlord did not provide page two of the Notice to end Tenancy issued May 2, 2014 or the two other 10 Day Notices provided in documentary evidence.

At the present hearing, the Landlord's agent testified that he served the Notice of Hearing and the Landlord's Application for Dispute Resolution (the "Application Materials") on the Tenants by registered mail. He further testified that the Tenants picked up the registered mail and that he subsequently spoke to the Tenants who confirmed they knew about the hearing. He did not provide the registered mail receipt, but instead provided the tracking number.

I have reviewed the tracking number provided by the Landlord's agent and which indicates the package was mailed out July 24, a notice was left July 25, a final notice August 3 and then returned to sender August 10. Notably, the Notice to end Tenancy is dated September 25, 2014 and the Landlord's application for dispute resolution was not filed until October 14. As such, the tracking number provided could not be evidence of service of the Application Materials for this hearing.

As I cannot confirm service of the Application Materials, I must dismiss the application pursuant to section 89.

It is again suggested that the Landlord's agent contact the Residential Tenancy Branch and obtain information about proceeding with this application.

Conclusion

The Landlord's agent did not prove that the Tenants were served with the Application Materials and as such the application 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: November 28, 2014

Residential Tenancy Branch

