



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The Landlord and Tenant were each given full opportunity, under oath, to be heard, to present evidence and to make submissions.

The landlord testified that, on October 23, 2014 he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") to the person whom he believed was the tenant's roommate. The landlord was not able to provide much detail about the person he believed was the tenant's roommate. He indicated that her name was Helen or Heather. He testified that she answered the door at the residence on October 23, 2014. He testified that he believed he had seen her before but was not certain. He was not certain if he asked her name when he handed the 10 Day Notice to this person.

The tenant stated that she had no roommate named Heather or Helen and that, in fact, she had no roommate at all. It is noted that there is no co-tenant on the tenancy agreement for this rental unit.

Section 88 of the *Act* reads as follows:

All documents, other than those referred to in section 89 [special rules for certain documents], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;...
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides...

- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides...
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides...;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;...

As the Landlord was uncertain about the name or residence of the person who received the Notice and considering the Tenant's testimony that she knows nobody by the name provided by the Landlord, I find on a balance of probabilities, that the Notice was not served to the Tenant as required under the Act.

As the Notice has not been served to the tenant in a method required under section 88 of the *Act*, I dismiss the landlord's application with leave to reapply.

Conclusion

I dismiss the landlord's application for an Order of Possession based on the 10 Day Notice of October 23, 2014 with leave to reapply. This tenancy continues.

I dismiss the landlord's application for a monetary Order with leave to reapply.

As the landlord has been unsuccessful in his application, I dismiss his application to recover his filing fee from the tenant without 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: December 18, 2014

Residential Tenancy Branch

