



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for Cause pursuant to section 55.

The tenant did not attend. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The 11:00 a.m. hearing lasted until 11:19 a.m.

Preliminary Issue: Analysis of Service of Documents and Notice of Hearing

The landlord testified that a 1 Month Notice to End Tenancy for Cause ("the 1 Month Notice") was posted on the tenant's door on December 10, 2014. Pursuant to section 88 and 90 of the *Act*, and based on the undisputed testimony of the landlord, I find the tenant deemed served with the 1 Month Notice on December 13, 2014, 3 days after its posting on the door of the rental unit.

The landlord gave sworn testimony that she served the tenant with the Application for Dispute Resolution hearing package on January 3, 2015 by placing the package under the tenant's rental unit door. The landlord testified that, as the residence is a rooming house, she believed this was the most appropriate way to serve the package to the tenant.

Section 89 of the *Act* requires that the Application for Dispute Resolution, when an application is made for an Order of Possession, must be served in one of the following ways:

- (a) By leaving a copy with the tenant;
- (b) By sending a copy by registered mail to the address at which the tenant resides;
- (c) By leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;

- (d) By attaching a copy to a door or other conspicuous place at the address at which the tenant resides...

The landlord did not serve the tenant personally, by mail or through another individual residing within the unit. She placed the package under the tenant's rental unit door. Residential Policy Guideline No. 12 provides the application service provisions under the *Act*. It refers specifically to this set of facts;

Posting - By attaching a copy to a door or other conspicuous place at the address at which the tenant resides. A conspicuous place is one that is clearly visible and likely to attract notice or attention. Placing a copy of the document under the door is not recognized by the Legislation.

The purpose of serving documents is to notify the parties and allow an opportunity for those parties to prepare for the dispute resolution hearing. Failure to serve documents in a way recognized by the Legislation may result in a hearing being adjourned or dismissed.

I find the tenant was not served with the landlord's Application for Dispute Resolution hearing package in a method required under the *Act*. Since I find that the tenant was not served as required, I further find that the tenant did not have proper notice of this hearing. Based on this, I am unable to consider the landlord's application for an Order of Possession

Conclusion

I dismiss the landlord's application for an Order of Possession with leave to re-apply.

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: January 23, 2015

Residential Tenancy Branch

