



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was originally dealt with by way of a Direct Request Proceeding (a non-participatory hearing) in response to the Landlords' Application for Direct Request (the "Application") made on February 10, 2015. The Application was made for an Order of Possession and a Monetary Order for unpaid rent.

On February 12, 2015 an Interim Decision was made by an Adjudicator who had conduct of the Landlord's Application. The Adjudicator explained in the written decision that there were a number of issues associated with the manner in which the Landlord had served the Tenant with the required documents for the Direct Request proceedings.

The Adjudicator made a finding that the Landlord had failed to provide sufficient evidence that the documents had been served to an adult apparently residing with the Tenant; therefore, an Order of Possession could not be issued to the Landlord. With respect to the Landlord's monetary claim, the Adjudicator was unable to deal with this because Section 89(1) of the *Residential Tenancy Act* (the "Act") does not allow this manner of service to the Tenant when making a monetary claim.

As a result, the Adjudicator adjourned the proceedings to be reconvened with the participation of the parties in this hearing. The Landlord was provided with the notice of hearing documents to serve to the Tenant in accordance with the Act. The Landlord was also given the option of re-serving the original documents for the Direct Request proceedings to satisfy service under the Act so that the Landlord's monetary claim could be considered.

The Landlord appeared for the hearing and provided affirmed testimony. There was no appearance for the Tenants during the 15 minute duration of the hearing. The Landlord testified that by the time she received the documents for this hearing from the Residential Tenancy Branch to serve the Tenant, the Tenant had vacated the rental suite.

As a result, the Landlord did not require an Order of Possession but did request a Monetary Order for unpaid rent. However, as the Tenant had not been served with the required documents and put on notice of this hearing, I was not prepared to move forward and hear the Landlord's monetary claim as service under the Act had not been satisfied.

However, the Landlord was informed that she has leave to re-apply for a Monetary Order when she is in a position to serve the Tenant. The Landlord was provided with some information on the service requirements outlined in Sections 88, 89(1), 89(2) and 90 of the Act.

Conclusion

The Landlord's Application for an Order of Possession is dismissed as the Tenant vacated the rental suite. The Landlord's Application for a Monetary Order could not be heard as the Tenant had not been put on sufficient notice for this hearing. Therefore, I dismissed the Landlord's Application for a Monetary Order **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: March 17, 2015

Residential Tenancy Branch

