



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MUKS KUM OL HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPB, FF

Introduction and Preliminary Matters

This hearing was convened to deal with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession due to an alleged breach by the tenant of an agreement with the landlord and for recovery of the filing fee paid for this application.

The landlord's agent (hereafter "landlord") attended; the tenant did not attend.

The landlord testified that the tenant was served with their application for dispute resolution and notice of hearing by leaving the documents with the tenant. In response to my question, the landlord said that an agent no longer with the company served the tenant with the application and notice of hearing; however, there was no affidavit or other evidence from that agent to verify service of the documents.

Analysis and Conclusion

Section 89(1) of the Act requires that an application for dispute resolution be served upon the respondent (the tenant in this case) in person, by registered mail to the address at which the person resides, or if a tenant, by registered mail to the forwarding address provided by the tenant.

Dispute Resolution Rules of Procedure (Rules) 3.5 states that at the hearing the applicant must be prepared to demonstrate to the satisfaction of the Arbitrator that each respondent was served with the hearing package and all evidence, as required by the Act.

In the case before me I find that the landlord failed to provide sufficient evidence that the tenant was served the notice of this hearing in a manner as required under section 89(1) of the Act as the person serving the documents neither appeared at the hearing nor submitted an affidavit or other evidence of service of the documents. As a result, I must dismiss the landlord's application.

Conclusion

I hereby dismiss the landlord's application, with leave to reapply.

Leave to reapply does not extend any applicable time limitation periods under the Act.

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: April 13, 2015

Residential Tenancy Branch

