



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC QUORUM PROPERTIES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, OPR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim.

The landlord made this application on March 18, 2015 and served a copy of the application and the hearing package to the tenant at the rental unit on March 18, 2015, by registered mail.

At the start of the hearing, the landlord informed me that on March 20, 2015, he found out that the tenant had moved out sometime prior to March 20, 2015 and therefore the landlord did not need an order of possession.

Issue to be Decided

Was the tenant served with the notice of hearing pursuant to Section 88?

Analysis

Section 88 of the *Residential Tenancy Act* addresses how to give or serve documents. The purpose of serving a notice of hearing under the Legislation is to notify the person being served of matters relating to arbitration. The tenant is entitled to have an opportunity to be heard at the hearing.

Pursuant to s. 88 of the *Residential Tenancy Act*, a package sent by registered mail is deemed to have been received five days after the date that it was mailed. In this case, the landlord served the tenant with the notice of hearing package, by registered mail on March 18, 2015 and accordingly it is deemed received by the tenant on March 23, 2015. The tenant had moved out sometime before March 20, 2015 and therefore it is more likely than not that the tenant did not receive the notice of hearing.

Based on the testimony of the landlord, I find that the tenant moved out without informing the landlord. Since the hearing package was sent to the tenant at the dispute rental address, after he moved out, I am not satisfied that the notice of hearing was served in accordance with section 88 of the *Act*.

Conclusion

The landlord's 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: April 23, 2015

Residential Tenancy Branch

