



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR

Introduction

This participatory hearing was convened in response to an original application by the landlord by Direct Request process pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows.

1. A Monetary Order for unpaid rent - Section 67
2. An Order of Possession for unpaid rent - Section 55

The landlord attended the conference call hearing but the tenant did not. The landlord testified the tenant vacated sometime before April 07, 2015, therefore an Order of Possession was not necessary, but they were still pursuing a Monetary Order for unpaid rent.

The landlord testified that they served the tenant the Notice of Hearing package by leaving it inside the rental unit on April 07, 2015 - subsequent to the tenant vacating the unit, "before April 07, 2015". A forwarding address was not provided by the tenant and the landlord does not know the tenant's whereabouts. The landlord testified that they subsequently communicated with the tenant who confirmed to the landlord that they had not received the Notice of Hearing; and regardless, stated they would not be attending a hearing. The landlord did not employ other means to serve the tenant.

Section 89 of the Act states as follows

Special rules for certain documents

89 (1) An application for dispute resolution or a decision of the Director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;

- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the Director under section 71 (1) *[director's orders: delivery and service of documents]*.

I am not satisfied the tenant was served with notice of this hearing pursuant to Section 89 of the Residential Tenancy Act, or that the tenant is aware of this proceeding.

Therefore, I **dismiss** the landlord's application, but I do so with leave to reapply. None of the potential merits of this application were heard.

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 20, 2015

Residential Tenancy Branch

