



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MGMT CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on May 15, 2015 to obtain an Order of Possession for unpaid rent and a Monetary Order for: unpaid rent or utilities; to keep all or part of the security deposit; and to recover the cost of the filing fee from the Tenant for this application.

The hearing was conducted via teleconference and was attended by the Landlord. No one appeared on behalf of the respondent Tenant.

Issue(s) to be Decided

Has the Landlord proven the Tenant has been sufficiently served notice of this proceeding?

Background and Evidence

At the outset of this proceeding the Landlord stated that the Tenant vacated the property sometime around May 19, 2015 which is when he filed his application, and the Tenant did not provide him with a forwarding address. Therefore he was not able to serve the Tenant with copies of his application for Dispute Resolution or the hearing documents.

Analysis

Section 89(1) of the Act stipulates that 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*].

In the absence of the respondent Tenant, the burden of proof of service of the hearing documents lies with the applicant Landlord. The Landlord testified that he had not had an opportunity to serve the Tenant because she vacated the property and did not provide him with a forwarding address.

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with section 89 of the *Act*, I dismiss the Landlord's claim, with leave to reapply.

Conclusion

The Landlord was not able to prove service of his application. Accordingly, I **DISMISSED** the Landlord's application, with leave to reapply. This dismissal does not extend any time limits set forth in the *Residential Tenancy 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: July 06, 2015

Residential Tenancy Branch

