



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MND MNR MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution filed on January 18, 2015 by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, damages, and to keep the security and or pet deposit.

The Landlord's Agent appeared at the teleconference hearing; however, 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

The Landlord's Agent testified that he initially served copies of his application and hearing documents to the Tenant via regular mail and then he sent a second package via registered mail. He stated that he was not able to provide evidence of the date the registered mail was sent and he was not able to provide the tracking information.

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's Agent testified that he initially send the packages via regular mail which is not an approved method of service for an application for Dispute Resolution. Although the Landlord's Agent stated that a second package was sent via registered mail, he was not able to provide evidence of the date or tracking number for that shipment. Therefore, in absence of the Tenant, I find there to be insufficient evidence to prove the Tenant was served with Notice of this proceeding, in accordance with section 89(1) of the Act.

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

I HEREBY DISMISS the Landlord's claim, 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 22, 2015

Residential Tenancy Branch

