



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ACTION PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, to retain all or a portion of the tenant's security deposit or pet damage deposit, and to recover the cost of the filing fee.

An agent for the landlord (the "agent") attended the teleconference hearing. As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The agent testified that the Notice of Hearing and Application were served by registered mail. The agent was unable to provide the date the registered mail was mailed, or a registered mail tracking number. The agent was provided time to call the company she works in order to obtain that information, however, after several minutes, returned and indicated that she was not successful in obtaining the registered mail information. The agent stated that she also posted the Notice of Hearing and Application to the tenant's door and that the landlord was withdrawing their request for an order of possession as the tenant vacated the rental unit on June 30, 2015.

Section 89(1) of the *Act* applies and indicates the ways in which an application for dispute resolution must be given, such as in the case of the landlord's claim for a monetary order:

- (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 matter before me, the agent testified that the tenant was served with the Notice of Hearing and Application by posting to the tenant's door which is not one of the ways permitted under section 89(1) of the *Act*.

Both parties have the right to a fair hearing. The tenant would not be aware of the hearing without having received the Notice of Hearing and the Application. Therefore, I **dismiss** the landlord's application **with leave to reapply** as the tenant has not been sufficiently served with the Notice of Hearing or Application provided for under section 89(1) of the *Act*. I note this decision does not extend any applicable time limits under the *Act*. The landlord is reminded to serve the tenant using one of the ways described under section 89(1) of the *Act*.

Conclusion

The landlord's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: August 17, 2015

Residential Tenancy Branch

