



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid utilities, pursuant to section 55;
- a monetary order for unpaid utilities, pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The landlord and his agent, TC (collectively "landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package ("Application") on October 26, 2015, by way of posting to his rental unit door. The landlord confirmed that no one witnessed this service.

The tenant testified that he did not receive a copy of the landlord's application. The tenant testified that the landlord advised him verbally about the hearing approximately two weeks before the hearing date. The tenant explained that he attended at the Residential Tenancy Branch ("RTB") office in person three times, where he was given the calling codes and date for this hearing, not a copy of the landlord's Application. The tenant confirmed that he did not know what the landlord's Application was about and was not prepared for this hearing because he had no notice of it, aside from the date and time.

During the hearing, I advised the landlord that I was dismissing his entire application. I found that the landlord provided insufficient evidence of service, in accordance with

section 89 of the *Act*. The landlord did not have a witness to the posting of the Application and the tenant did not receive the Application.

Further, I advised the landlord that he is permitted to post the Application to the tenant's door only when applying for an order of possession as per section 89(2) of the *Act*, not for a monetary order as per section 89(1) of the *Act*. I advised the landlord that section 89(1) of the *Act* requires service in person or by way of registered mail. I told the landlord that if he wished to pursue this matter in the future, to provide proof of service by way of a Canada Post registered mail receipt or a witness for personal service.

I advised the landlord that his application to recover the \$50.00 filing fee was dismissed without leave to reapply. I told the landlord that he would be required to file a new application and pay another filing fee if he wished to pursue this matter further.

Conclusion

The landlord's application for an order of possession and a monetary order for unpaid utilities is dismissed with leave to reapply.

The landlord's application to recover the \$50.00 filing fee is dismissed without leave to reapply. The landlord must bear the cost of this fee.

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: December 23, 2015

Residential Tenancy Branch

