



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 690324 LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, FF

Introduction and Conclusion

This hearing convened as a result of the Landlord's Application for Dispute Resolution wherein the Landlord sought a Monetary Order for unpaid rent or utilities and to recover the filing fee.

Only the Landlord's agent, G.R., appeared at the hearing. He provided affirmed testimony.

As the Tenant was not at the hearing, service of the Notice of Hearing and the Landlord's Application for Dispute Resolution was considered. G.R. was not able to advise when the Tenant had been served with the Notice of Hearing. He also testified that the Tenant had vacated the rental unit in July of 2015 and failed to provide his forwarding address in writing.

Section 89 of the *Act* provides for service of an application for dispute resolution and provides 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*].

One of the principles of Natural Justice is that a party to a dispute has the right to know the case against them and be given the opportunity to be heard. Further, the right to a fair hearing requires that individuals are not penalized by decisions affecting their rights or legitimate expectations unless they have been given prior notice of the cases against them, a fair opportunity to answer to the allegations, and the opportunity to present their own cases.

In the present case, the Landlord could not satisfy me that he had served the Tenant with Notice of the Hearing or the Landlord's Application in accordance with section 89; accordingly, the Landlord's application is dismissed with leave to reapply.

Conclusion

The Landlord failed to prove he served the Tenant with Notice of the Application and the Notice of Hearing and accordingly their 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: January 26, 2016

Residential Tenancy Branch

