



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal LePage Nanaimo Realty Rentals
and [tenant name suppressed to protect privacy]

FINAL DECISION

Dispute Codes:

OPR, MNR

Introduction

This conference call hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord had originally requested an Order of possession for unpaid rent and a monetary Order for unpaid rent, via the Direct Request Proceeding ex parte process.

On December 14, 2015 an interim decision was issued, adjourning the application to a participatory hearing.

The agent for the landlord provided affirmed testimony that on December 23, 2015 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service.

The tenant did not attend the hearing.

The landlord said that the tenant vacated the rental unit in late November, 2015. The landlord has not received the keys to the unit and some personal property remains in the unit but the landlord has no doubt that the tenant vacated in November 2015.

Section 89 of the Act requires a tenant be served with Notice for this type of hearing either through personal delivery or registered mail to the address where the tenant resides. I find that the mail sent on December 23, 2015 is not sufficient to prove service as the tenant was no longer residing in the rental unit. During the hearing a check of the Canada Post web site showed that the mail was ready for pick-up in late December. There was no indication the mail had been delivered to the tenant.

Therefore, as service has not been completed to the tenant I find that the application is dismissed with leave to reapply within the legislated time limit.

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: January 28, 2016

Residential Tenancy Branch

