



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession based on unpaid rent; a Monetary Order for unpaid rent; and, for damage to the rental unit; and to recover the filing fee for the Application

The Landlord claimed that he personally served the Tenant with the Notice of Hearing and his Application after receiving the hearing package from the Branch. After 16 minutes of hearing time, he was still not able to state what day he served the Tenant.

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*].

I was not able to find that the Landlord served the Tenant in accordance with section 89; consequently, I was not able to proceed with the hearing. As I informed the Landlord, one of the principles of Natural Justice is that a party to a dispute is entitled to know the nature of the allegations against them and be informed as to the date of the hearing should they wish to attend and respond to any of those allegations. As I was not convinced that the Landlord properly served the Tenant, I could not be satisfied that the Tenant was aware the date and time of the hearing.

The Landlord's Application is dismissed with leave to reapply.

Conclusion

The Landlord failed to prove he served the Tenant with Notice of the Dispute Resolution Hearing in accordance with the *Act*. The Landlord's 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 25, 2016

Residential Tenancy Branch

