



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MND MNR OPR

Introduction

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (“the Act”) for an Order of Possession for unpaid rent pursuant to section 55; a monetary order for unpaid rent and other loss to the landlord pursuant to section 67; and to recover the filing fee from the tenants for the cost of this application pursuant to section 72.

The tenants did not attend. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent (“10 Day Notice”) was personally served to both of the tenants on May 3, 2016. The landlord gave sworn testimony that he served the tenants the Application for Dispute Resolution hearing package on May 20, 2016 by registered mail. In these circumstances where inquired further regarding service of the documents related to this application and hearing, I find that the landlord has not provided sufficient evidence to show that both tenants were sufficiently served with the Application for Dispute Resolution hearing package.

The landlord did not submit any documentary evidence that could assist in his recall with respect to the service of the documents to notify each tenant individually of this application and hearing, as required. Proper service of documents is essential to the Residential Tenancy Dispute Resolution process. Service of documents is restricted by timelines and methods of service to underscore its importance. It is also essential that a party be able to prove that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the Act states that, when the respondents (in this case two tenants) do not appear at a Dispute Resolution hearing, the applicant (the landlord) must be

prepared to prove service under oath. At this hearing, the landlord provided mainly testimony and relied on minimal documentary evidence.

Prior to considering the details of the applicant's claim, particularly an application to end a tenancy, I must be satisfied that the landlord/applicant sufficiently served the other parties, allowing those parties an opportunity to know the case against them and attend the dispute resolution hearing.

Given the lack of detail and certainty in providing evidence with respect to service and the lack of documentary evidence, I find that the landlord was unable to show that the tenants were both served with the dispute resolution documents and were therefore aware of this dispute resolution hearing.

Conclusion

I dismiss the landlord's application with leave to reapply. Any applicable timelines for this application will still apply.

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: June 22, 2016

Residential Tenancy Branch