



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order of Possession - Section 55; and
2. A Monetary Order for unpaid rent - Section 67.

The Landlord and Tenant both appeared and gave evidence under oath. The Tenant states that she never received any documentation from the Landlord and did not know about this hearing until 4 days ago.

The Landlord states that the notice to end tenancy for unpaid rent was given to a "girl" at the Tenant's door. The Landlord states that he does not know the age of the apparent adult and believes that the "girl" is a resident of the unit. The Landlord states that the application for dispute resolution was given to an adult male and that the Landlord believes this person lives at the residence because he opened the door of the unit. The Landlord states that there was no witness for service of the documents.

The Tenant states that the notice to end tenancy was given to her male babysitter who does not reside at the unit and that this person only told the Tenant about the notice 4 days ago. The Tenant states that she never received any other documentation. The Tenant states that the Tenant is moving out of the unit at the end of the month and agrees to vacate the unit by September 30, 2016. The Landlord agrees to an end of the tenancy end as of September 30, 2016.

Section 63 of the Act provides that if the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or order. As the Parties agreed to the end of the tenancy I find that the matter of possession of the unit has been

resolved and **I grant he Landlord with an order of possession effective 1:00 p.m. on September 30, 2016.**

Section 89 of the Act provides that an application for dispute resolution seeking a monetary order 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*].

Based on the Landlord's evidence that he did not serve the Tenant personally or by registered mail and considering the Tenant's evidence of not having received any documentation in relation to this hearing, I cannot find that service of the application in relation to the claim for a monetary order has been accomplished in accordance with Section 89 of the Act. I therefore dismiss the application in relation to the monetary claim with leave to reapply. Leave to re-apply is not an extension of any applicable limitation period.

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: September 07, 2016

Residential Tenancy Branch

