



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes: OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

The notice of hearing was served on the tenant on July 18, 2016 by registered mail. The tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

The landlord testified that the tenant moved out sometime before July 25, 2016 without informing the landlord. The landlord stated that after several unanswered calls, the landlord visited the unit on July 25, 2016 to find it abandoned.

Issues to be decided

Was the tenant properly served with the notice of hearing and the landlord's application? If so is the landlord entitled to a monetary order?

Background and Evidence

The landlord testified that the tenancy started on July 17, 2015 and ended when the tenant moved out sometime in the middle of July 2016, without informing the landlord. The tenant did not provide the landlord with a forwarding address. Accordingly the landlord mailed the hearing package to the rental unit.

Analysis

Section 89 (1) of the *Residential Tenancy Act* entitled "How to Give or Serve Documents".

Section 89(1) states

- 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*].

The landlord mailed the notice of hearing package on July 18, 2016. The package was returned to the landlord as “unclaimed”. The tenant would have been deemed to have received the package on July 23, 2016. Based on the testimony of the landlord, I find on a balance of probabilities, that it is more likely than not that the tenant had moved out prior to receiving notification of the registered package.

Conclusion

I am not satisfied that the tenant was served the notice of hearing package and therefore, I dismiss this application with leave to re-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: September 02, 2016

Residential Tenancy Branch

