



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an Order of Possession for Unpaid Rent pursuant to section 55. The landlord's application was originally made as a Direct Request. The decision maker reviewing the landlord's Direct Request ordered that the matter be adjourned to a participatory hearing.

The tenants did not attend this hearing although the teleconference hearing scheduled for 9:30am remained open until 9:51 am.

Preliminary Issue: Service of Hearing Documents

The landlord/applicant attended the hearing and was given a full opportunity to be heard. The landlord testified that, by an oversight she had **not** served the tenants with the Notice of Hearing. I refer to the conclusion of the Direct Request Interim Decision written on July 29, 2016 which stated in bold,

Notices of Reconvened Hearing are enclosed with this interim decision for the applicant to serve, with all other required documents, upon the tenant within three (3) days of receiving this decision in accordance with section 89 of the Act.

[emphasis added]

As the applicant, the landlord was required to serve the tenants with the Notice of this Hearing. The landlord was candid in her testimony that she did not understand her obligation to serve the Notice of Hearing and to prove that the tenants were served with the documents to provide notification of this hearing.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process to notify the respondent of the application and the hearing information related to

the application. Service of documents is restricted by timelines and methods of service to underscore its importance. Prior to considering the details of the applicant's claim, I must be satisfied that the landlord/applicant sufficiently served the other party, allowing that party an opportunity to know the case against them and attend the dispute resolution hearing.

The landlord has not sufficiently served the tenants with the Notice of hearing in accordance with the Act and the directions of the previous decision maker. In the circumstances, I dismiss the landlord's application with leave to reapply.

Conclusion

I dismiss the landlord's application 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: September 28, 2016

Residential Tenancy Branch