



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR, O, FF

Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy issued under s. 46 of the *Residential Tenancy Act* (the “*Act*”) and for a monetary award for unpaid rent.

The tenant did not attend the hearing within fifteen minutes after its scheduled start time.

The landlord testifies that he served the ten day Notice by attaching it to the tenant’s door on July 23, 2016. He testifies that he served the application package; the application for dispute resolution and notice of hearing, by attaching it to the tenant’s door on August 5.

I find that the tenant has been duly served with the ten day Notice and has not either applied to cancel it or paid any of the money demanded by it within five days after service or at all. As a result, by operation of s. 46 of the *Act*, this tenancy ended on August 3, 2016 and the landlord is entitled to an order of possession.

The landlord’s method of service of the application and notice of hearing raises problems. Section 89 of the *Act* permits an application for an order of possession to be served by attachment to a tenant’s door, as was the case here. However, s. 89 does not permit monetary applications to be served in such a manner.

I find that I have authority to issue an order of possession to the landlord, but due to the defect in service of his application I do not have authority to consider the landlord’s monetary claim.

I dismiss the landlord’s monetary claim, with leave to re-apply.

The landlord will have an immediate order of possession against the tenant.

I award the landlord recovery of the \$100.00 filing fee and I authorize him to recover it from the \$225.00 security deposit he holds.

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 22, 2016

Residential Tenancy Branch