



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an Order of Possession for unpaid rent, pursuant to section 55; and
- a monetary order for unpaid rent, pursuant to section 67

The tenant did not attend the hearing, which lasted approximately 15 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Direct Request Proceeding and Service

This hearing was originally scheduled as a direct request proceeding, which is a non-participatory hearing. An “interim decision,” dated August 4, 2016, was issued by an Adjudicator for the direct request proceeding. The interim decision adjourned the direct request proceeding to this participatory hearing.

The landlord was required to serve the tenant with a copy of the interim decision and the notice of reconvened hearing within three days of receiving it, as outlined in the interim decision itself. When questioned as to when she received the interim decision, the landlord claimed that she did not recall.

During the hearing, the landlord provided varying testimony regarding service. Initially, the landlord claimed that she could not recall the date of service because she was driving and stuck in a traffic accident and not at her office, where her paperwork was laid out. Then the landlord said that she looked through her paperwork and located a proof of service for August 3, 2016, the day before the interim decision was written. The landlord then claimed that she found the date in her notes and indicated it was August 7, 2016. The landlord said that she served the documents in person with witnesses

present; however, the landlord claimed that none of the witnesses were able to testify at this hearing because they were at work.

At the hearing, I advised the landlord that I could not confirm that the tenant was served with the interim decision and notice of reconvened hearing in accordance with section 89 of the *Act*. The landlord provided conflicting testimony regarding service. I notified the landlord that her entire application dismissed with leave to reapply. I notified her that she would be required to file a new application for dispute resolution and provide proof of service at the next hearing.

Conclusion

The landlord's entire application is dismissed 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 26, 2016

Residential Tenancy Branch