



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR and FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent?

Background and Evidence

The Landlord stated that the Application for Dispute Resolution and Notice of Hearing was served to the Tenant, via registered mail. She stated that she cannot locate the Canada Post receipt so she is unable to ascertain the date of mailing and she is unable to provide a Canada Post tracking number.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;

(d) by sending a copy by registered mail to a forwarding address provided by the tenant;
or

(e) as ordered by the director under section 71 (1) of the *Act*.

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure stipulates that an applicant must be prepared to demonstrate that each respondent was served with the Application for Dispute Resolution and Notice of Hearing. The best method of proving that documents have been served by registered mail is to provide a copy of the Canada Post registered mail receipt. In some instances I am willing to accept proof of service by registered mail if the applicant is able to cite the Canada Post tracking number that was provided by Canada Post when the package was mailed.

As the Landlord was unable to cite a Canada Post tracking number and a Canada Post receipt was not before me, I find there is insufficient evidence to establish that the Tenant was served with the Application for Dispute Resolution.

As there is insufficient evidence to establish that the Tenant was served with the Application for Dispute Resolution, I am unable to proceed with the hearing in the absence of the Tenant. The Application for Dispute Resolution is dismissed, with leave to reapply.

Conclusion

The Application for Dispute Resolution is dismissed, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution in regards to this matter.

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: October 04, 2016

Residential Tenancy Branch