



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, MNSD, MNDC, CNR, ERP, RP, RR, OLC, FF*

Introduction

This hearing dealt with applications by both the landlord and the tenant pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and a monetary order for unpaid rent, cost of repairs and cleaning and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim.

The tenant applied to cancel the notice to end tenancy and for an order directing the landlord to comply with the *Act*, make emergency repairs, reduce rent, provide services, return the deposit and for the recovery of the filing fee.

Despite having applied for dispute resolution the tenant did not attend the hearing. Therefore the tenant's application is dismissed without leave to reapply. This hearing only dealt with the landlord's application. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

The landlord stated that he served the tenant with the notice of hearing on August 29, 2016, by slipping the package under the door of the rental unit.

Since the tenancy has ended, the landlord's application for an order of possession is no longer necessary. Therefore, this hearing only dealt with the landlord's application for a monetary order.

Issues to be decided

Was the tenant properly served with the notice of hearing package? If so is the landlord entitled to a monetary order for unpaid rent, cost or repairs and cleaning and for the filing fee? Is the landlord entitled to retain the security deposit in partial satisfaction of his claim?

Background and Evidence

The landlord testified that the tenancy started on April 01, 2016. A rental agreement was not filed into evidence. The landlord stated that the tenant failed to pay rent that was due on August 01, 2016 in the amount of \$850.00. On August 12, 2016, the landlord served the tenant with a notice to end tenancy for non-payment of rent.

The tenant applied to dispute the notice on August 12, 2016 and moved out on September 01, 2016. The landlord stated that the tenant did not provide him with a forwarding address.

The landlord stated that he made application for dispute resolution on August 29, 2016 and served the tenant with the hearing package by slipping it under the door to the rental unit.

Analysis

Section 89 of the *Residential Tenancy Act* addresses how to give or serve documents.

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*].

(2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
 - (b) by sending a copy by registered mail to the address at which the tenant resides;
 - (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
 - (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
 - (e) as ordered by the director under section 71
- (1) [*director's orders: delivery and service of documents*].

Based on the testimony of the landlord, I am not satisfied that the notice of hearing was served in accordance with section 89 of the *Act*. The landlord's application is dismissed with leave to reapply.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's 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: October 12, 2016

Residential Tenancy Branch

