



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR; MNR; FF

Introduction

This Hearing was scheduled to consider the Landlord's Application for Dispute Resolution seeking an Order of Possession; a monetary award; and to recover the cost of the filing fee from the Tenant.

This matter was scheduled to be heard at 9:30 a.m., November 1, 2016. The Landlord signed into the Hearing; however, the Tenant did not. The Hearing remained open for 14 minutes.

The Landlord gave affirmed testimony at the Hearing. He testified that the Tenant moved out of the rental unit "about a week after" he gave her a notice to end the tenancy. He stated that he served the Tenant with the Notice of Hearing Documents and copies of his documentary evidence by courier, to an address given to him by the Tenant's friend. The Landlord testified that he drove to that address and saw the Tenant's car in the driveway.

Section 89 of the Act provides for methods of service of an application for dispute resolution, as follows:

- 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*].

[reproduced as written]

Based on the affirmed testimony of the Landlord, I find that there is insufficient evidence that the Tenant was served in accordance Section 89 of the Act. The Act does not provide for service by courier. In addition, I find that the Landlord provided insufficient evidence that the Tenant resides at the address given by the Tenant's friend.

Conclusion

The Landlord's application for an Order of Possession and recovery of the filing fee for this Application is **dismissed**.

The Landlord's application for a monetary award 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: November 01, 2016

Residential Tenancy Branch