



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, CNR, MNR, MNSD FF*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy and for the filing fee.

The landlord testified that the tenant moved out on October 15, 2016 without providing the landlord with a forwarding address. The agent for the landlord testified that she observed the tenant moving into a house and noted the address. The landlord served the tenant with the notice of hearing on October 31, 2016 by registered mail to this address.

Even though the tenant had made application for dispute resolution, he did not attend the hearing. Therefore the tenant's application is dismissed without leave to reapply and 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.

Since the tenancy has ended, the landlord's application for an order of possession is no longer necessary.

Issues to be decided

Was the tenant properly served with the notice of hearing? If so, is the landlord entitled to a monetary order for unpaid rent and the filing fee?

Background and Evidence

The tenancy started on March 01, 2013. The monthly rent was \$700.00 payable on the first of the month.

The landlord testified that the tenant failed to pay rent for September. On September 09, 2016, the landlord served the tenant with a notice to end tenancy for \$715.00 in unpaid rent. The tenant did not pay rent and continued to occupy the rental unit without paying rent until he moved out on October 15, 2016. The landlord testified that as of the date of this hearing, the tenant owed a total of \$1,480.00 in unpaid rent and late fees.

The landlord testified that the tenant moved out on October 15, 2016 without providing the landlord with a forwarding address.

Analysis

Section 89 (1) of the *Residential Tenancy Act* entitled "How to Give or Serve Documents".

Section 89(1) states

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*].

The landlord mailed the notice of hearing package on October 31, 2016 to an address that the landlord's agent observed the tenant moving into. Since the tenant did not provide a forwarding address and failed to attend the hearing, I am unable to determine whether the tenant received the package.

The purpose of serving a notice of hearing under the Legislation is to notify the person being served of matters relating to arbitration. The tenant is entitled to have an opportunity to be heard at the hearing. Based on the testimony of the landlord, I am not satisfied that the notice of hearing was served in accordance with section 88 of the *Act*.

Conclusion

I am not satisfied that the tenant was served the notice of hearing package and therefore, I dismiss this application with leave to re-apply.

The tenant's application is dismissed in its entirety without 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 14, 2016

Residential Tenancy Branch