



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") 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 this hearing, which lasted approximately 20 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.

The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") on the tenant's door on November 11, 2016. In accordance with sections 88 and 90 of the Act, I find that the tenant was deemed served with the landlord's 10 Day Notice on November 14, 2016, three days after posting.

At the outset of the hearing the landlord testified that the tenant is no longer residing in the rental unit and therefore the landlord is not seeking an Order of Possession. The landlord's application for an Order of Possession is withdrawn.

The landlord testified that the tenant was served with the landlord's application for dispute resolution on November 22, 2016 by posting the application on the rental unit door. The landlord testified that the application had been removed from the door a few days later and therefore believes that the tenant received the application.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Analysis – Service of Landlord's Application

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

89(1) An application for dispute resolution,...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 document]...*

The landlord has not served the tenant in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the application for dispute resolution.

Conclusion

I dismiss the landlord's application 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: December 15, 2016

Residential Tenancy Branch