



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding A A PROPERTY MANAGEMENT LTD

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:36 p.m. in order to enable him to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord's agent, AL ('landlord'), testified on behalf of the landlord in this hearing and was given full authority by the landlord to do so. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that the tenant had moved out on November 30, 2016, before this application for dispute resolution was filed. Accordingly he no longer requires an Order of Possession, and that part of his application is withdrawn by the landlord. The landlord indicated that he is still seeking a monetary order for unpaid rent, as well as authorization to recover his filing fee from the tenant.

The landlord testified that he served the tenant with a copy of his dispute resolution hearing package by posting it on the door of the residence on December 8, 2016.

Issues(s) to be Decided

Has the landlord served documents to the tenant in accordance with the *Act*? Is the landlord entitled a monetary order as well as recovery of the filing fee for this application from the tenant?

Preliminary Issue - Service of Documents

The landlord testified during the hearing that he served the tenant the application for dispute resolution on December 8, 2016, by posting it on the door of the rental unit. He later discovered that the tenant had already moved out on November 30, 2016.

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

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;...*

At the hearing, I advised the landlord of my finding that he has not served the tenant in a manner required by section 89(1) of the *Act*. For this reason, I cannot consider the landlord's application for a monetary Order. I am not satisfied that the tenant was properly served with any portion of the landlord's application for dispute resolution.

As the landlord's application for a monetary Order has not been served to the tenant in a method required under section 89(1) of the *Act*, I dismiss the landlord's application for a monetary Order with leave to reapply.

Conclusion

As the tenant had moved out on November 30, 2016 the landlord's application for an Order of Possession is cancelled.

I dismiss the landlord's application for a monetary Order with leave to reapply.

As the landlord has been unsuccessful in his application, I dismiss his application to recover his filing fee from the tenant 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: January 12, 2017

Residential Tenancy Branch