



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, OPB, MND, MNR, MNSD, MNDC, FF

Introduction and Preliminary Matters

This hearing convened as a result of the Landlord's Application for Dispute Resolution filed November 29, 2016 wherein the Landlord requested an Order of Possession, Monetary and to recover the filing fee.

Only the Landlord's agent, E.F., appeared at the hearing. He gave affirmed testimony and was provided the opportunity to present the Landlord's evidence orally and in written and documentary form, and to make submissions to me.

E.F. included his name on the Application for Dispute Resolution. As he is the agent of the Landlord, I have, pursuant to section 64(3)(c) of the *Residential Tenancy Act*, amended the Landlord's Application to remove E.F.'s name.

E.F. testified that the Tenant vacated the rental unit on November 12, 2016. He further testified that the Tenant failed to provide a forwarding address.

E.F. stated that he served the Tenant with the Notice of Hearing and the Landlord's Application on December 3, 2016 by registered mail to the address of a friend of the Tenant's whom he stated helped the Tenant move out of the rental unit. A copy of the registered mail tracking number is included on the unpublished cover page of this my Decision. E.F. stated that he was not certain if the Tenant *resided* with her friend and he served her at this location as he did not have any other information as to where the Tenant was residing.

One of the principles of Natural Justice is that a party to a dispute is afforded the right to know the nature of the dispute, and the opportunity to attend the hearing to present their case. The *Residential Tenancy Act* prescribes methods of service which ensure a party is informed when the other party seeks an Order against them.

Section 89 of the *Residential Tenancy Act* provides that service of an Application for Dispute Resolution may be effected by registered mail, provided that it is sent to the address *at which the tenant resides*.

In the case before me, I have insufficient evidence to find that the Tenant was served at *the address at which she resides*. As I am unable to find the Tenant was served in accordance with the *Act*, I am unable to proceed with the Landlord's Application. The Landlord's Application is therefore dismissed with leave to reapply.

Conclusion

The Landlord's Application Materials were sent to the Tenant's friend's home by registered mail. The Landlord's agent was unable to confirm whether the Tenant actually resides at this address; as such, this is ineffective service pursuant to section 89 of the *Act*. The 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: January 09, 2017

Residential Tenancy Branch