



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The landlord, DL ('landlords'), testified in this hearing, and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply

DL testified that the tenant was personally served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), with an effective date of March 16, 2017, on March 6, 2017. In accordance with section 88 of the Act, I find the tenant was duly served with the 10 Day Notice on March 6, 2017.

DL testified that the hearing package was served to the tenant on February 25, 2017 by sliding the package under the tenant's door.

Preliminary Issue - Service of the Application for Dispute Resolution

Section 89 of the *Act* establishes the following special rules for service of documents.

Special rules for certain documents

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].*

(2) An application by a landlord under section 55 [order of possession for the landlord], 56 [application for order ending tenancy early] or 56.1 [order of possession: tenancy frustrated] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;*
- (b) by sending a copy by registered mail to the address at which the tenant resides;*
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;*
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;*

(e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

DL testified during the hearing that the landlord's Application for Dispute Resolution ('Application') was served to the tenant on February 25, 2017 by sliding the package under the door. I note that the service of the Application does not meet the requirements of sections 89(1) and 89(2) of the *Act* as noted above. Accordingly, I dismiss the landlords' entire application with leave to reapply.

Conclusion

The landlords' entire 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: March 28, 2017

Residential Tenancy Branch