



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Codes: MNR, MNSD, OPR, FF

Introduction:

This was an application by the tenant for an Order to cancel a Notice to end the Tenancy for Non-Payment of Rent dated February 9, 2017. The landlords also applied for an Order for Possession and a Monetary Order representing unpaid rent and damage to the unit. Only the landlord JC attended the application which was heard by conference call and lasted fifteen minutes.

Issues:

Are the landlords entitled to an Order for Possession and Monetary Order?

Service of Documents:

The landlord JC testified that he served the Notice to End the tenancy on January 3, 2014 by handing it to the tenant on February 9, 2017, and the dispute resolution package by posting it to the tenant's door on February 16, 2017. Based on the evidence of the landlord I find that the tenant was been personally served with the Notice to End Tenancy for non-payment of rent on February 9, 2017. I find that subject to sections 88 and 89 of the Act, the application for Dispute Resolution was deemed to have been served on February 19, 2017 by posting it to the door on February 16, 2017.

Background and Evidence:

JC testified that the tenancy began on July 1, 2016 with rent in the amount of \$ 975.00 due in advance on the first day of each month. The tenant paid a security deposit of \$ 400.00 on July 1, 2016. JC testified that the arrears from November 2016 through March 2017 were \$ 4,875.00. Furthermore the landlord is claiming the estimated sum of \$ 300.00 for repairs to a broken wall. The landlord requested an order for Possession and a monetary order

Analysis:

Section 88 of the Act states as follows:

How to give or serve documents generally

88 *All documents, other than those referred to in section 89 [special rules for certain documents], that are required or permitted under this Act to be given to or served on a person must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;*
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;*
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;*
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;*
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;*
- (i) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents];*
- (j) by any other means of service prescribed in the regulations*

Section 89 of the Act provides:

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;
(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)

Here the landlords have not served the application for dispute resolution claiming a monetary Order in accordance with section 89. Accordingly I have dismissed with leave to reapply all of the landlords' monetary claims. The tenant has not paid all the outstanding rent on time and has applied for arbitration to dispute the Notice but did not attend the hearing. Accordingly I have dismissed all of the tenant's applications. Based on the above facts I find that the landlords are entitled to an order for possession effective two days after service on the tenant. I allow the landlords to recover the filing fee of \$ 100.00 by retaining that sum from the security deposit.

Conclusion:

I have dismissed all of the tenant's applications. I have granted the landlords an Order for Possession. This order may be filed in the Supreme Court and enforced as an Order of that Court. I order that the landlords retain \$ 100.00 from the security deposit representing the filing fee herein. This Decision and Order must be served on the tenant as soon as possible. I have dismissed with leave to reapply all of the landlords' monetary claims.

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 13, 2017

Residential Tenancy Branch