



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD

Introduction

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;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to retain the tenants' security deposit pursuant to section 38.

The tenant did not attend this hearing, which lasted approximately 15 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 has not served the tenants' with his application for dispute resolution. The landlord said that there was an earlier hearing seeking the same relief that he failed to attend. The landlord said that application was dismissed with leave to reapply and he was informed that he did not need to serve the tenants with the present application.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to monetary compensation as claimed?

Analysis – Service of Landlord's Application

Section 89(1) of the *Act* and Rules of Procedure 3.1 establishes the requirement for an applicant to serve their application for dispute resolution on the respondent.

Rule 3.1 states in part:

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Application for dispute Resolution;

Section 89(1) provides special rules for service of certain documents, which include an application for dispute resolution:

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 testified that he has not served the tenant in a manner required by section 89(1) of the *Act* or at all. I am not satisfied that the tenant was properly served with the application for dispute resolution. Consequently, I dismiss the landlord's application.

Conclusion

The landlord's 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 15, 2017

Residential Tenancy Branch