



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MND MNR MNSD OPN OPQ

Introduction

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

- an order of possession pursuant to section 49 of the *Act*;
- a Monetary Order for unpaid rent and for money owed or compensation for damage or loss under section 67 of *Act*;
- authorization to retain the security deposit pursuant to section 38 of the *Act*; and
- authorization to recover the filing fee for this application from the tenants, pursuant to section 72 of the *Act*.

Only the landlord appeared at the hearing. The landlord was given an opportunity to present evidence, call witnesses and provide testimony.

The landlord explained that a 2 Month Notice for Landlord's Use of Property ("2 Month Notice") was issued to the tenants in person on February 26, 2017. Pursuant to sections 88 and 90 of the *Act* the tenants are deemed to have been served on this same day.

The landlord could not provide a date or a method as to how he had served the tenants with his Application for Dispute Resolution (the "Application"). The landlord explained that it was given by a Police Officer but he did not have the Officer's name, the date this occurred or any verification that this Application was served on the tenants.

Analysis

Section 89 of the *Act* establishes the following Special rules for 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 not served the tenants in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenants were properly served with the landlord's Application.

As the landlord was unsuccessful in his application, he must bear the cost of the \$100.00 filing fee.

Conclusion

I dismiss the application's application in its entirety, 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: May 24, 2017

Residential Tenancy Branch