



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for unpaid rent or utilities; an Order of Possession for Cause; a monetary order for unpaid rent or utilities; a monetary order for damage to the unit, site or property; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, however the line remained open while the phone system was monitored for in excess of 10 minutes and no one for the tenant joined the call. The landlord advised that the tenant has vacated the rental unit and the applications for an Order of Possession are withdrawn.

The landlord was not able to provide any evidence with respect to service of the hearing package on the tenant but believes the tenant was served by registered mail. The landlord has not provided any evidentiary material for this hearing, but advised that a hearing was scheduled for May 12, 2017 concerning the tenant's application and evidentiary material was provided for that hearing. The tenant didn't attend that hearing, and the landlord was successful in obtaining an Order of Possession. The landlord seeks to have that evidence included in this hearing.

The *Residential Tenancy Act* states that an application for dispute resolution and notice of a hearing must be served on a respondent within 3 days of making the application. In this case, I have no evidence of when or how the tenant was served. Further, there is no evidence before me to substantiate the landlord's claims. The landlord believed evidence would be available to me for this hearing from the May 12, 2017 hearing, however that does not satisfy the Rules of Procedure. Therefore, I find it just in the circumstances to dismiss the landlord's application with leave to reapply.

Conclusion

For the reasons set out above, the landlord's applications for an Order of Possession are withdrawn.

The balance of the landlord's application is hereby 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: May 30, 2017

Residential Tenancy Branch