



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Swedish Canadian Manor Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR

Introduction

This hearing was convened in response to an application by the Landlord for an order of possession pursuant to section 55 of the *Residential Tenancy Act* (the “Act”).

The Tenant did not attend the hearing. The Landlord’s Agent appeared.

Issue(s) to be Decided

Did the Landlord make its application after the expiry of the time allowed for the Tenant to dispute the notice to end tenancy?

Did the Landlord serve the Tenant with the application for dispute resolution as required under the Act?

Background and Evidence

The Landlord states that it served the Tenant with a 10 day notice to end tenancy for unpaid rent (the “Notice”) by posting the Notice on the door of the unit on May 5, 2017. The Landlord made its application for the order of possession on May 12, 2017.

Analysis

Section 55(2) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 90 of the Act provides that where a document is served or given by

attaching a copy of the document to a door or other place, it is deemed to be received on the 3rd day after it is attached. Section 46 of the Act provides that a tenant must dispute a notice to end tenancy for unpaid rent within 5 days of receiving the notice.

Given the evidence that the Landlord served the Notice by posting it on the door on May 5, 2017 I find that it is deemed to be received on May 8, 2017 and that the Tenant had until May 13, 2017 to make its application to dispute the notice. The Landlord could only make its application after this date expired. As the Landlord applied May 12, 2017 I find that the Landlord applied before the time expired. I therefore dismiss the application with leave to reapply.

As the application has been dismissed as set out above it is not necessary to consider whether the Landlord properly served the application for dispute resolution.

Conclusion

The 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: June 22, 2017

Residential Tenancy Branch