



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

On May 25, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession; for a monetary order for unpaid rent or utilities. The matter was scheduled for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that the Tenants were served the Notice of Hearing by posting the Notice of Hearing on the Tenant's door on May 27, 2017.

The Landlord testified that the Tenant's had already moved out before the Notice of Hearing was posted.

The Landlord does not require an order of possession but wanted to proceed with her monetary claims for unpaid rent.

I find that I cannot hear the Landlord's application for compensation due to the service of the Notice of Hearing. The Tenants were not living in the rental unit when the Notice of Hearing was served.

Even if the Tenants were still living in the unit, section 89 (1) (a) and (c) of the Act requires the Landlord to serve the Notice of Hearing in person, or by registered mail, if the Landlord is seeking compensation. The Notice of Hearing package provided to the Landlord on May 25, 2017, provided specific instructions on how the Notice of Hearing must be served.

I find that the Tenants were not served with the Notice of Hearing, and the Landlord's application for compensation was not served in accordance with section 89 of the *Residential Tenancy Act*.

After explaining to the Landlord that it would be contrary to the principles of fairness and natural justice to hear her case and grant a monetary order against the Tenants, the Landlord became argumentative.

The Landlord repeatedly spoke over me and would not listen. The Landlord was warned about her behavior; however she continued to argue. The Landlord had to be muted using the telephone conference program.

I explained to the Landlord that I am dismissing the Landlord's claim for compensation with leave to reapply. If the Landlord wishes to pursue her request for compensation against the Tenants, she must reapply and serve the Tenants in accordance with section 89 of the Act.

Conclusion

The Landlord failed to serve the Tenants with the Notice of Hearing. The Landlord's application for compensation 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: July 12, 2017

Residential Tenancy Branch