



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This participatory hearing was convened after the issuance of a July 18, 2017, interim decision by an Adjudicator. The Adjudicator determined that the landlord's application could not be considered by way of the Residential Tenancy Branch's (RTB) direct request proceedings, as had been originally requested by the landlord. The Adjudicator reconvened the landlord's application to a participatory hearing for the following:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear this matter.

The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord R.D. (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord confirmed that he was representing the interests of both landlords in this matter.

The landlord testified that he sent the tenant a copy of the dispute resolution hearing package including notice of this hearing by registered mail on July 26, 2017. The landlord provided a copy of the Canada Post Tracking Number to confirm this registered mailing.

In this type of matter, the landlord must prove they served the tenant with the Notice of dispute resolution proceeding with all the required inclusions as indicated on the Notice as per subsections 89 (1) and (2) of the *Act* which permit service "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." The definition of

registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find that the tracking number provided by the landlord is for a package sent by Canada Post’s Xpress Post mailing, which may or may not require a signature from the individual to confirm delivery of the document to the person named as the respondent. In this case, Canada Post’s Online Tracking System shows that a signature was not required for the delivery of this Xpress Post mailing and, as such, this mailing does not meet the definition of registered mail as defined under the *Act*.

Since I find that the landlord has not served the tenant with notice of this hearing in accordance with section 89 of the *Act*, I dismiss the landlord’s application for an Order of Possession based on unpaid rent and a monetary Order with leave to reapply. I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

During the course of the hearing the landlord indicated that it appeared that the tenant may have moved out. I instructed the landlord to review Part five of the RTB Regulations concerning abandonment of personal property and to contact an Information Officer with the RTB for information about the landlord’s options going forward.

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: August 15, 2017

Residential Tenancy Branch