



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB MND MNR MNSD MNDC FF

Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent and utilities pursuant to section 67;
- a monetary order for damage to the unit, site, or property, money owed or compensation for loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 16 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present their sworn testimony, to call witnesses, and to make submissions.

At the beginning of the hearing the landlord indicated that he did not require an Order of Possession as the tenant moved out on February 28, 2017. Accordingly the landlord's application for an Order of Possession was withdrawn by the landlord.

Preliminary Issue - Service of the Application for Dispute Resolution

The landlord testified during the hearing that he had attempted to serve the tenant with his Application by way of Registered Mail to an address he had obtained from the tenant's driver's license in October of 2016. Since the tenant had moved out on February 28, 2017, the tenant has not provided a forwarding address to the landlord, and the landlord was not in possession of the current address.

The landlord had attempted to serve the tenant by registered mail to the address on the Driver's License, but the package was returned to the landlord. The landlord was not able to confirm service of the application to the tenant.

Section 89 of the *Act* establishes the following special rules for service of documents.

Special rules for certain documents

89 (1) *An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents].*

I find that the landlord has not met the requirements of section 89 of the *Act* for service of their Application. Accordingly, I dismiss the landlord's entire monetary application with leave to reapply.

Conclusion

The landlord withdrew his application for an Order of Possession as the tenant moved out on February 28, 2017.

I dismiss the landlord's entire monetary application for dispute resolution 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