



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This participatory hearing was convened after the issuance of an August 10, 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; and
- 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 1:45 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord X.W. (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 testified that her representative personally handed the tenant a copy of the notice of this hearing on August 12, 2017 and that her mother witnessed this service. In accordance with section 89 I find that the tenant is duly served with the notice of hearing.

The landlord gave written evidence that a copy of the Landlord's Application for Dispute Resolution (the Application) was placed under the door of the rental unit, along with a copy of all documentary evidence as a part of the direct request proceeding package on July 29, 2017.

In this type of matter, the landlord must prove they served the tenant the Application as per subsections 89 (1) and (2) of the *Act* which permit service by either leaving a copy

with the person, sending a copy by registered mail to the address at which the person resides, leaving a copy with an adult who apparently resides with the tenant; or attaching a copy to the door or other conspicuous place at the address at which the tenant resides. I find that the landlord has served the Application by leaving it under the door of the rental unit, which is not a method of service that is in accordance with section 89 of the *Act*.

Since I find that the landlord has not served the tenant with the Application in accordance with section 89 of the *Act*, the landlord's application for an Order of Possession based on unpaid rent and a Monetary Order is dismissed, with leave to reapply.

Conclusion

I dismiss the landlord's application, 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: September 11, 2017

Residential Tenancy Branch