



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, MNSD, FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and damages pursuant to section 67;
- authorization to retain the security deposit for this tenancy pursuant to section 38; and
- to recover the filing fees for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The landlord's agent attended the hearing (the "landlord") and was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice") on the tenant's rental unit door on July 7, 2017. No copy of the 10 Day Notice was submitted into written evidence. The landlord testified that the application for dispute resolution dated July 25, 2017 was served on the tenant by registered mail on that date. The landlord was unable to provide a CanadaPost tracking number for the registered mail.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession? Is the landlord entitled to a monetary award as claimed? Is the landlord entitled to recover the filing fee for the application from the tenant?

Analysis - Service

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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 document]...*

I find that in the absence of the respondent the testimony of the landlord that the application for dispute resolution was served by registered mail to be insufficient evidence to conclude that the application was served in accordance with section 89 of the *Act*. The landlord was unable to provide a valid Canada Post tracking number. In addition, while the landlord testified that he served the tenant with a 10 Day Notice on July 7, 2017, no copy of the 10 Day Notice was submitted into written evidence. The landlord did not provide any documentary evidence in support of the landlord's claim that the tenant has been properly served with a 10 Day Notice or the application for dispute resolution. I am not satisfied that the tenant was properly served with the application for dispute resolution.

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: October 23, 2017

Residential Tenancy Branch