



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This participatory hearing was convened after the issuance of a September 25, 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 sections 46 and 55; and
- a monetary order for unpaid rent pursuant to section 67.

The tenant did not attend this hearing, although I waited until 9:43 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agent C.H. 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 the notice of this adjourned hearing was sent to the tenant by way of registered mail on September 26, 2017. The landlord provided the Canada Post Tracking Number to confirm this registered mailing.

The landlord provided written evidence that the Landlord's Application for Dispute Resolution (the Application) and evidentiary package were sent to the tenant by way of registered mail on September 16, 2017, as a part of the direct request proceeding package. The landlord provided the Canada Post Tracking Number to confirm this registered mailing.

At the outset of the hearing the landlord testified that the tenant abandoned the unit on September 15, 2017.

Analysis

Section 89 of the *Act* allows for service of an application for dispute resolution by way of registered mail to the address at which the tenant resides. As the landlord has stated that the rental unit has been abandoned since September 15, 2017, and the landlord served the notice of this adjourned hearing to the tenant on September 26, 2017, I find the landlord has served the notice of this adjourned hearing to an address where the tenant no longer resides, which is not in accordance with section 89 of the *Act*.

Since I find that the landlord has not served the tenant with notice of this adjourned hearing in accordance with section 89 of the *Act*, I dismiss the landlord's application for 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.

Since I have found that the tenant abandoned the rental unit on September 15, 2017, the landlord does not require an Order of Possession.

I note that the landlord may want to refer to Part 5 of the Residential Tenancy Regulations concerning abandonment.

Conclusion

I dismiss the monetary portion of the landlord's Application for unpaid rent, with leave to reapply

I dismiss the portion of the landlord's Application concerning an Order of Possession, without 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: December 19, 2017

Residential Tenancy Branch