



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THEPORTER RESIDENCES DEVELOPMENT LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* ("Act"), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 18 minutes. The landlord's agent, EH ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the asset manager for the landlord company named in this application and that he had permission to speak on its behalf as an agent at this hearing.

Preliminary Issue – Service of Landlord's Application

When initially asked about service of the landlord's application for dispute resolution hearing package, the landlord was not prepared to provide evidence regarding service, indicating that he had not been through the hearing process before and he needed time to go through his documents. He said that the landlord who would normally handle this matter was out of town and unable to attend this hearing. I provided the landlord with 18 minutes during this hearing in order to go through his documents to find evidence regarding service.

The landlord testified that he thought that the tenant was served with the landlord's application in person but he did not know the date of service.

I find that the landlord was unable to provide the date of service for this application. The tenant did not appear at this hearing to confirm that he received the application. Accordingly, I find that the landlord failed to prove service in accordance with section 89(1) of the *Act* and the tenant was not served with the landlord's application.

At the hearing, I informed the landlord that I was dismissing the landlord's application with leave to reapply, except for the filing fee. I notified him that the landlord would be required to file a new application and pay a new filing fee, if it wished to pursue this matter further. I cautioned him that the landlord would have to prove service at the next hearing, including specific evidence regarding the date and method for service of the application and any additional written evidence.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of 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: January 10, 2018

Residential Tenancy Branch