



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by Direct Request (the “Application”) that was adjourned to a participatory hearing. The Application was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for unpaid rent and recovery of the filing fee, and for an Order of Possession.

The hearing was convened by telephone conference call and was attended by the Agents for the Landlord (the “Agents”), who provided affirmed testimony. The Tenant did not attend. The Agents were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”); however, I refer only to the relevant facts and issues in this decision. At the request of the Agents, a copy of the decision and any applicable orders will be sent to them by e-mail at the e-mail address provided in the hearing.

Preliminary Matters

At the outset of the hearing the Agents withdrew their Application for an Order of Possession stating that the Tenant moved out on October 22, 2017, without providing a forwarding address.

The *Act* and Rules of Procedure state that the Respondent must be served with a copy of the Application and Notice of Hearing. The Agents testified that the Application and the Notice of Direct Request were sent to the Tenant at the dispute address by registered mail on October 24, 2017, and provided a Proof of Service Notice of Direct Request Proceeding (the “Proof of Service”) and a registered mail receipt. The Agents also testified that the Notice of Hearing was sent to the Tenant at the dispute address

by registered mail on October 27, 2017, and provided me with the registered mail receipt number.

Based upon the undisputed testimony of the Agents, I advised them at the conclusion of the hearing that a Monetary Order would be issued. However, after the close of the hearing and upon further review and consideration of the documentary evidence and testimony before me, I am not satisfied that the Tenant received or was served with the Application, the Notice of Direct Request, or the Notice of Hearing in accordance with the *Act* and the Rules of Procedure.

As the above documents were sent to the Tenant at the dispute address after the Agents knew that the Tenant no longer resided there, I find that the Tenant was not served with these documents in accordance with the *Act* or the Rules of Procedure and that it would therefore be prejudicial to the Respondent and a breach of procedural fairness to allow the Application as the Tenant was not provided with notice of the case against them. Based on the foregoing, the Application is dismissed with leave to reapply.

Conclusion

The Landlord's Application is dismissed with leave to re-apply. This is not an extension of any statutory deadline.

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 11, 2018

Residential Tenancy Branch