



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MND MNR MNDC MNSD FF

Introduction

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

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent, damage and compensation for loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 10:50 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 10:30 a.m.

Preliminary Issue: Service of Landlord's Application

The landlord's application was filed on May 2, 2018. The landlord testified that he served the application for dispute resolution package by leaving a copy on the floor outside the door of the rental unit. The landlord testified that the tenant would not open the door therefore he left a copy outside the door. The landlord testified that he was talking to the tenant through the door so he knows the tenant was home. The landlord was not sure of the date of service and repeatedly referred to the date of April 17, 2018 which was the date of service of the 10 Day Notice to End Tenancy. The landlord was advised that his application was not filed until May 2, 2018 so it could not have been served on April 17, 2018. The landlord then testified that he served the application on the same date that it was filed. The landlord testified that he had a witness and took a picture as proof of service. The landlord did not submit a picture as proof of service or a witnessed proof of service form for the application.

The landlord also advised that the tenant vacated the rental unit on June 6, 2018 so he no longer requires an order of possession.

Section 89 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 or a decision of the director to proceed with a review under Division 2 of Part 5, 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 the landlord has provided insufficient evidence that the tenant has been served with the landlord's application for dispute resolution by registered mail to either an address at which the tenant resides or a forwarding address provided by the tenant or in person as required by section 89(1) of the *Act*.

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: June 22, 2018

Residential Tenancy Branch