



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPU

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for an order of possession pursuant to section 55.

The tenant did not attend this teleconference hearing, which lasted approximately 15 minutes. The line remained open throughout the hearing. The corporate landlord was represented by its agent (the "landlord") who joined the line 10 minutes after the scheduled starting time and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution dated October 10, 2018 was personally delivered to the tenant by the landlord on or about October 11, 2018.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Analysis- Service of Landlord's Application

Section 89(2) of the *Act* provides that an application for dispute resolution seeking an order of possession for the landlord must be served in one of several ways including by leaving a copy with the tenant.

Rule of Procedure 3.5 provides that the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that the respondent was served with the Notice of Dispute Resolution Proceedings Package.

In the present case the landlord has provided no sworn statement, no witness to the service, and no documentary evidence regarding service on the tenant. The only

evidence before me is the testimony of the landlord that they have served the tenant personally.

I find that simply because the landlord presented undisputed testimony does not meet the evidentiary burden on a balance of probabilities. In the absence of additional evidence to support the landlord's statement I find that I am not satisfied that the tenant has been served in accordance with the *Act*. Consequently, I dismiss the present application with leave to reapply.

Conclusion

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: November 20, 2018

Residential Tenancy Branch