



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNRL, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent?

Background and Evidence

The Agent for Landlord stated that on December 10, 2018 the Application for Dispute Resolution and the Notice of Hearing were posted on the door of the rental unit.

The Landlord's assistant stated that on December 10, 2018 the Application for Dispute Resolution and Notice of Hearing was posted on the door to the rental unit. She stated that the Tenant did not respond to the documents that were posted and she does not know if the documents were received by the Tenant.

This hearing was scheduled to begin at 1:30 p.m. on April 5, 2019. By the time the teleconference was terminated at 1:40 p.m. the Tenant had not attended the hearing.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the Act stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;
or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Landlord submitted no evidence to show that the Tenant was personally served with the Application for Dispute Resolution or Notice of Hearing and I therefore find that she was not served in accordance with section 89(1)(a) of the *Act*.

The Landlord submitted no evidence that the Application for Dispute Resolution was mailed to the Tenant and I cannot, therefore, conclude that she was served in accordance with section 89(1)(c) or 89(1)(d) of the *Act*.

There is no evidence that the director authorized the Landlord to serve the Application for Dispute Resolution to the Tenant in an alternate manner, therefore I find that she was not served in accordance with section 89(1)(e) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenant received the Application for Dispute Resolution, therefore I cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

As the Tenant was not served with the Application for Dispute Resolution and the Notice of Hearing in accordance with section 89(1) of the *Act*, I was unable to proceed with the hearing in the absence of the Tenant. The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

Conclusion

The Application for Dispute Resolution 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 *Act*.

Dated: April 05, 2019

Residential Tenancy Branch