



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNRL-S OPC OPR

Introduction

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

- an Order of Possession pursuant to section 55; and
- a monetary award for unpaid rent pursuant to section 67.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Issue

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a monetary award as claimed?

Background and Evidence

The landlord testified that they served the 1 Month Notice dated February 11, 2019 personally on the tenant on that date. The landlord testified that they believe they served the application for dispute resolution dated March 7, 2019 on the tenant by registered mail. The landlord was unable to provide a Canada Post tracking number to show the application was served.

The landlord subsequently issued another 1 Month Notice dated March 1, 2019 and a 10 Day notice dated March 11, 2019. The landlord filed amendments to their application on March 8, March 11, and April 16, 2019. The landlord said that they believe they served some of the materials in person and others by registered mail but were uncertain which documents were served in what manner and on what date. The landlord submitted into evidence 1 Canada Post tracking number showing something being mailed on March 11, 2019.

Analysis - Service

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

89(1) An application for dispute resolution,...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]...*

While both leaving a copy with a person and mailing by registered mail are acceptable manners for service, I find there is insufficient evidence in support of the landlord's submission that the tenant was served with all of the materials. The landlord testified that they served the initial 1 Month Notice in person but provided no documentary evidence in support. The landlord submits that other documents were served by registered mail but was unable to provide documentary evidence or a valid Canada Post tracking number. The only Canada Post tracking number submitted was for materials sent on March 11, 2019 and the landlord was uncertain what was being served on that date. The landlord gave vague testimony about the service of the materials stating that some were delivered personally and others by registered mail but could not provide specific details

I find that I am not satisfied on a balance of probabilities that the tenant was served with any of the materials of the landlord. Based on the evidence of the landlord I am not satisfied that the tenant was served with any of the Notices to End Tenancy, Application for Dispute Resolution or Amendments in accordance with the Act or at all.

For the above reasons I dismiss the landlord's 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: April 26, 2019

Residential Tenancy Branch