



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 the landlord pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent, unpaid utilities and the filing fee.

At the start of the hearing the landlord informed me that the tenant had moved out, without providing a forwarding address and that he had gained possession of the rental unit. Accordingly, the landlord's application for an order of possession is moot and therefore this hearing only dealt with the landlord's application for a monetary order.

Preliminary and procedural matters

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. Section 59 (3) of the *Residential Tenancy Act* states that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

The purpose of serving a notice of hearing and application for dispute resolution to the respondent is to notify the person being served of matters relating to arbitration and to provide the person with an opportunity for rebuttal.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent to the tenant by email. The tenant did not respond to the landlord's email.

Special rules for certain documents

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;

In this case, I find that tenant was not served in a method permitted under section 89 of the Act as the documents were sent by email. They were not served in person or by registered mail. Since the tenant was not served documents in accordance with section 89 and therefore was not provided with an opportunity for rebuttal, 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 30, 2019

Residential Tenancy Branch