



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LOW COST RENTALS & SALES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNRL-S

Introduction

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

- an order of possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to retain the tenant's security deposit, pursuant to section 38.

The tenant did not attend this hearing, which lasted approximately 13 minutes. The landlord's two agents, landlord KR ("landlord") and "landlord CD" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was in senior operations and landlord CD stated that he was a manager. Both landlord agents confirmed that they had permission to represent the landlord company named in this application.

This hearing began at 11:00 a.m. with me and landlord CD present. The landlord called in late at 11:03 a.m. I notified the landlord about what occurred in her absence before she called into the hearing. The hearing ended at 11:13 a.m.

At the outset of the hearing, the landlord confirmed that the tenant vacated the rental unit on December 16, 2019 and the landlord took back possession of the unit. The landlord confirmed that she did not require an order of possession against the tenant. I notified the landlord that this portion of the landlord's application is dismissed without leave to reapply.

Preliminary Issue – Service of Landlord's Application

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package by way of posting it to the tenant's rental unit door on November 27, 2019.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows:

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 documents].*

(2) An application by a landlord under section 55 [order of possession for the landlord], 56 [application for order ending tenancy early] or 56.1 [order of possession: tenancy frustrated] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;*
- (b) by sending a copy by registered mail to the address at which the tenant resides;*
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;*
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;*
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

Service by posting to the tenant's door is not permitted for a monetary application under section 89(1) of the *Act*, only for an order of possession application under section 89(2) of the *Act*. Accordingly, I find that the landlord failed to prove service in accordance with

section 89(1) of the *Act* for the monetary application and the tenant was not properly served with the landlord's monetary application.

At the hearing, I advised the landlord that I was dismissing the landlord's monetary application with leave to reapply. I notified her that the landlord could file a new application and pay a new filing fee, if the landlord wished to pursue this matter further.

Conclusion

The landlord's application for an order of possession is dismissed without leave to reapply.

The remainder of 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: January 16, 2020

Residential Tenancy Branch