



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METCAP LIVING MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNDCL -S; FFL

Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, parking fees and an NSF charge; and, authorization to retain the tenant's security deposit. An agent appeared on behalf of the landlord; however, there was no appearance on part of the tenant.

The landlord's agent stated the tenant has already vacated the rental unit. As such, the landlord does not require an Order of Possession and the only outstanding issue is the landlord's monetary claim against the tenant.

Where a respondent does not appear for a hearing, the applicant bears the burden to prove the respondent was served with the Application for Dispute Resolution and other required documents in a manner that complies with section 89 of the Act. Since the tenant did not appear, I proceeded to explore service of hearing documents upon the tenant. I noted the landlord had not provided a registered mail receipt or any other documentation to demonstrate how the tenant was served with the proceeding package prior to the hearing. As such, I asked the landlord's agent to provide this information orally. The landlord's agent stated the hearing package was sent to the tenant via regular mail on October 9, 2019; then she stated it was mailed on December 13, 2019; and, then she stated it was sent on December 6, 2019.

Under section 89 registered mail is a permissible method of service but regular mail is not. Furthermore, the proceeding package was generated by the Residential Tenancy Branch on December 17, 2019; therefore, none of the dates the landlord's agent provided to me orally could have pertained to service of the proceeding package.

In light of the above, I find the landlord did not prove service of the proceeding package upon the tenant and I dismiss the landlord's application 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 21, 2020

Residential Tenancy Branch