



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL, OPR, MNRL, OPN**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- An order for possession under a 10-Day Notice to End Tenancy for Unpaid Rent ("Ten-Day Notice ") pursuant to sections 46 and 55;
- An order of possession pursuant to a tenant's Notice to End Tenancy under section 55;
- Authorization to recover the filing fee for this application pursuant to section 72.

I conducted this hearing by teleconference. The landlord attended and provided affirmed testimony. The hearing process was explained. The landlord made submissions as well as presented oral and written evidence.

The tenant did not attend the hearing. I kept the teleconference line open from the time the hearing was scheduled for forty minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenants had been provided.

At the outset, the landlord testified he had received reliable information from the adjacent neighbours of the tenant that the tenant had abandoned the unit. However, the landlord sought an Order of Possession in an abundance of caution.

The landlord testified the landlord gave notice to the tenant of the hearing by posting the Notice of Hearing and Application for Dispute Resolution to the tenant's door of the unit on February 28, 2020.

The landlord submitted no evidence to support a finding the tenant had been served with the Notice of Hearing and Application for Dispute Resolution pursuant to section 89.

Service of dispute resolution documents is set out in section 89 of the *Act* which states:

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

Therefore, I find the landlord has failed to prove service as required and I dismiss the application with leave to reapply.

Conclusion

As the landlord was unable to establish the tenant had been served with the Application for Dispute Resolution as required by section 89 of the *Act*, the 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: March 30, 2020

Residential Tenancy Branch