



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL-S, FFL

Introduction

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

- an Order of Possession for unpaid rent, pursuant to sections 46 and 55;
- a Monetary Order for unpaid rent, pursuant to sections 26 and 67;
- authorization to retain the tenant's security deposit and pet damage desposit, pursuant to section 38; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:11 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord's legal director and property manager (the "landlord's agents") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's legal director, property manager and I were the only ones who had called into this teleconference.

Preliminary Issue- Service

The landlord's agents testified to the following facts. The tenant moved out of the subject rental property on March 2, 2019 and did not provide a forwarding address. The tenant was served with the landlord's application for dispute resolution on March 9, 2020 via registered mail. The registered mail tracking number was entered into evidence. The Canada Post website states that the package was not picked up by the

tenant. The landlord's agents did not testify as to what address the landlord's application for dispute resolution was mailed to.

Since the landlord's agents testified that the tenant did not provide a forwarding address, I find that, on a balance of probabilities, the landlord served the tenant at the subject rental property, after the tenant moved out.

Section 89(1)(c) of the *Act* states that an application for dispute resolution may be served on the other party by sending a copy by registered mail to the address at which the person resides.

I find that, on a balance of probabilities, the tenant did not reside at the subject rental property when the landlord served her with the application for dispute resolution. I find that the tenant was not served in accordance with section 89 of the *Act*. The landlord's application for dispute resolution is therefore dismissed 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: May 01, 2020

Residential Tenancy Branch