



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with an application for dispute resolution by the landlord pursuant to sections 67 and 72 of the *Residential Tenancy Act*. The landlord applied for a monetary order for unpaid rent and the filing fee.

The landlord attended this hearing and was given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant did not attend the hearing.

At the start of the hearing the landlord informed me that the tenant had moved out, without providing a forwarding address.

Preliminary and procedural matters

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 served to the tenant at his place of work by the landlord's co-worker. The landlord could not recall the date of service, did not file any proof of service and her co-worker was unavailable to provide testimony.

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;

Rule 3.5 of the *Rules of Procedure* addresses proof of service required at the dispute resolution hearing. At the hearing, the parties must be prepared to demonstrate to the satisfaction of the arbitrator that other party was served with all the documents as required by the Act and these Rules of Procedure.

In this case the landlord stated that she had served the tenant with the Notice of Hearing package but did not provide proof of having done so.

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: November 23, 2020

Residential Tenancy Branch