



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Princeton & District Community Services
Society and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the "Act") for an Order of Possession of the rental unit.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by its agents who were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord's agent MT testified that they served the tenant with the notice of hearing and evidence by posting on the rental unit door. The agents were unable to recall the date when they served the notice nor did they provide any documentary evidence in support of their submission.

Analysis

Section 89(2) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for an order of possession for the landlord:

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*].

While positing on the rental unit door or other conspicuous place at the address of the tenant is an acceptable means of service, I find that the landlord has provided insufficient evidence to demonstrate, on a balance of probabilities, that service has been performed. I find the absence of any documentary evidence such as a signed Proof of Service Form, correspondence from the tenant confirming receipt, or witness statements and the landlord's agent's uncertain recollection of the date in which they served the materials is insufficient for me to conclude that the tenant was served in a manner consistent with the *Act*, or at all.

Based on the paucity of evidence I am not satisfied that the tenant was properly served with the application for dispute resolution. Consequently, I dismiss the present application 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: January 25, 2021

Residential Tenancy Branch