



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-PP, MNRL-S, FFL

Introduction and preliminary matters

On December 24, 2020, the Landlord made an Application for Dispute Resolution seeking an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") pursuant to Section 46 of the *Residential Tenancy Act* (the "*Act*"), seeking a Monetary Order for unpaid rent pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not attend the hearing at any point during the 9-minute teleconference. All parties in attendance provided a solemn affirmation.

The Landlord advised that the Notice of Hearing and evidence package was served to the Tenant by posting it on the Tenant's door on or around December 30, 2020. He stated that the reason he posted the Notice of Hearing and evidence package on the door was because the relationship with the Tenant was strained and he wanted to avoid contact. Section 89(1) of the *Act* below outlines the manners with which this Application could have been served.

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;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];

(f) by any other means of service provided for in the regulations.

Based on this undisputed evidence, I am not satisfied that this package was served in accordance with Section 89 of the *Act*. As such, I dismiss this Application with leave to reapply.

The Landlord also advised that an Order of Possession has already been granted from a previous hearing and the Tenant gave up vacant possession of the rental unit (the relevant file number is noted on the first page of this Decision). As the Landlord has already been granted an Order of Possession and as the Tenant has already given up vacant possession of the rental unit, it is not necessary to consider the merits of an Order of Possession on this Application.

As the Landlord was not successful in this Application, I find that the Landlord is not entitled to recover the \$100.00 filing fee.

Conclusion

I dismiss the Application for Dispute Resolution with leave to reapply; however, this does not extend any applicable time limits under the legislation. I have not made any findings of fact or law with respect to the Application.

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 22, 2021

Residential Tenancy Branch