



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding INTERPRO HOLDINGS INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

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

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

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 their agents (the "landlord") who were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

The landlord WA testified that they served the tenant with the notice of hearing and evidence by posting on the rental unit door on July 26, 2022. The landlord WA testified that they saw that the posting was removed by July 27, 2022. The landlords also testified that the tenant made reference to having received the notice of hearing in subsequent conversations. The landlord did not provide any documentary evidence in support of the claim of service.

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, photograph of the posted documents or other materials in support to be insufficient to demonstrate that service was performed. I find the testimony of the landlord's agent WA, and the anecdotal hearsay evidence that the tenant confirmed receipt to be of limited probative value in the absence of documentary evidence in support. Based on the totality of the evidence I am unable to find that the tenant has been served with the hearing package in a manner consistent with the *Act*, or at all.

Based on the paucity of evidence I find the landlord has not met their evidentiary onus and 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: August 19, 2022

Residential Tenancy Branch