



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR, MNRL-S, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the landlord on March 8, 2023, for an order of possession, for a monetary order for unpaid rent, to keep all or part of the security deposit and to recover the cost of the filing fee.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. Section 89 of the Act states special rules for certain documents, which in this case, the documents must be sent by registered mail or served in person.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail. The landlord gave Canada post tracking numbers for documents that were sent on January 18, 2023. This cannot be the Application for Dispute Resolution as it was not filed until March 8, 2023 and Notice of Hearing was not created until April 3, 2023.

As the landlord was unable to provide the required information on service upon the tenants as required by section 89 of the Act. I must dismiss the landlord's application with leave to reapply due to lack of service.

I note that the landlord indicated that the system is unfair to the landlord. However, I disagree as the most basic requirement of the Act and the principle of natural justice is to ensure that the other party has been served with the required documents for the hearing. It is the sole responsibility of the applicant whether it is the landlord or the tenant to meet this basic obligation under the Act and be organized and fully prepared to satisfy the service requirements under the Act.

Further, I note the landlord disconnected from the hearing when they could not prove service upon the tenants.

Conclusion

The landlord's application is dismissed with leave to reapply for monetary compensation, not an order of possession as the tenants have vacated the rental unit.

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 05, 2023

Residential Tenancy Branch