

Dispute Codes OPC, MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution filed by the landlord seeking:

1. An Order of Possession for Cause;
2. Monetary Orders for damage, compensation for loss and rent; and
3. Recover of the filing fee.

The tenant did not appear. The landlord gave evidence under oath. The landlord testified that her boyfriend served the tenant with the Notice to end Tenancy for Cause on January 16, 2010. Although the application for dispute resolution was filed on February 26, 2010 seeking, amongst other things, an Order of Possession, the landlord testified that the tenant had already vacated the rental unit at the end of January 2010.

With respect to service of the landlord's Application for Dispute Resolution filed February 26, 2010, the landlord testified that she served the tenant with that Application including the notice of hearing and the landlord's evidence by way of having the tenant pick the package up from her home. The landlord confirmed she did not hand the package directly to the tenant herself but says the tenant picked it up and then sent a mobile text message to the landlord to confirm that she had picked it up.

Law

Sections 89 of the *Residential Tenancy Act* sets out how Applications for Dispute Resolution are to be served:

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

(2) 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*].

Findings

The tenant did not appear at the hearing and, based on the evidence of the landlord, I am not satisfied that the tenant was properly served with the Application for Dispute

Resolution hearing package as required by the Act. I am therefore not satisfied that the tenant has had proper notice of the case being made against her.

Conclusion

The landlord's application is dismissed with leave to reapply.