

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Service of Landlord's Application

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's representative (the landlord) testified that the landlord's 10 Day Notice to End Tenancy for Unpaid Rent was posted on the tenant's door on November 4, 2010. She provided no more details regarding who posted this notice, nor did she submit a witnessed statement confirming that method of service of this document.

The landlord testified that the application for dispute resolution hearing package was sent to the tenant by registered mail on November 24, 2010. However, she was unable to provide a Canada Post Tracking Number regarding the service of this document, nor did she know whether the tenant received this information. She testified that she thought the tenant may be out of town. She had no details regarding the residential tenancy agreement, the tenant's security deposit or the service of the various documents, despite being given time at the hearing to check with her colleagues. She was unable to locate any additional details through her telephone calls.

Analysis – Service of Application for Dispute Resolution

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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;...*

I am not satisfied that the landlord has demonstrated to the extent necessary that the landlord has properly served the tenant with the landlord's application for dispute resolution in accordance with section 89(1) of the *Act*. I also have concerns as to whether the landlord has demonstrated to the extent necessary that the tenant was served with the 10 Day Notice to End Tenancy for Unpaid Rent in accordance with section 88 of the *Act*.

Conclusion

I dismiss the tenant's application 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*.