



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

Preliminary Issue

The hearing commenced as scheduled and only the applicant landlord appeared. At the outset of the hearing the landlord stated that the tenant was served with the Notice of Hearing these proceedings by registered mail sent on May 18, 2012. However, the landlord had not submitted documentary evidence to prove service nor was the landlord able to supply a valid and verifiable registered mail tracking number from Canada Post.

Section 89 (1) of the Act states that an application for dispute resolution 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*]. (substitute service)

The burden of proof is on the applicant to prove that the respondent was properly served according to the Act.

Given that the landlord had not offered sufficient proof that the respondent was served, I found that the hearing could not proceed and that the landlord's application must be dismissed.

Conclusion

Accordingly, I hereby dismiss the landlord'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*.

Dated: June 12, 2012.

Residential Tenancy Branch