

## DECISION

**Dispute Codes** OPR, MNR, MNDC, MND, MNSD, FF

### **Introduction**

This Hearing dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession; a Monetary Order for damages to the rental unit and unpaid rent; for compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit in partial satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlords gave affirmed testimony at the Hearing.

The Landlords testified that the Notice of Hearing documents were posted to the Tenant's door on November 20, 2012.

Section 89 of the Act provides the methods of service for an application for an Order of Possession and a Monetary Order. Section 89 states:

### **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*].

(3) A notice under section 94.21 [*notice of administrative penalty*] must be given in a manner referred to in subsection (1).

A landlord may serve a tenant with the Notice of Direct Request by posting it on a tenant's door for the purpose of requesting an Order of Possession, but not for the purpose of requesting a Monetary Order. Therefore, the Landlord's application for a Monetary Order for unpaid rent, damages to the rental unit and compensation for damage or loss is **dismissed with leave to reapply**.

The Landlords testified that the Tenant has moved out of the rental unit and therefore they no longer require an Order of Possession. Therefore this portion of their application is **dismissed**.

The Landlords have not been successful in their application and therefore I find that they are not entitled to recover the cost of the filing fee from the Tenant. The security deposit remains available on application by either party and must be applied in accordance with the provisions of the Act.

It is important to note that the Landlords are seeking a monetary award in the amount of \$3,400.00, but did not provide any documentary evidence in support of their application and became argumentative when asked about why they did not provide a copy of the Notice to End Tenancy, tenancy agreement or other important documents to the Residential Tenancy Branch.

The Landlords were advised to seek procedural advice from an Information Officer with respect to any future application. An information sheet accompanies this Decision, which includes contact numbers and a link to the Residential Tenancy Branch's website.

## **Conclusion**

The Landlords' application for an Order of Possession is **dismissed**.

The Landlord's application for a Monetary Order 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*.

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Dated: December 19, 2012.

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Residential Tenancy Branch