



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders including the following:

1. An Order of Possession – Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant did not appear at the Hearing. The Landlord stated that the Tenant moved out of the unit on July 2, 2013. The Landlord states that they confirmed this by attending the unit on July 2, 2013 and entering the unit to find it empty. The Landlord states that keys to the unit were left for the Landlord. The Landlord states that they served the application and notice of hearing to the Tenant at the dispute address on July 3, 2013 assuming that the Tenant would have forwarded their mail to their next address but that the mail was returned to the Landlord.

The Act provides the following requirements for service of the Application

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*].

Based on the Landlord's evidence that the Tenant was no longer at the unit on July 2, 2013, I find that the Tenant did not reside at this address when the Landlord mailed the application and that the Landlord has therefore not met the requirements of the Act in relation to service of the application and notice of hearing. I therefore dismiss the 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: August 01, 2013

Residential Tenancy Branch