



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 for unpaid rent 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.

The tenant did not attend. The landlord attended and was given full opportunity to be heard, to present evidence and to make submissions. The landlord provided sworn testimony that a 10 Day Notice to End Tenancy for Unpaid Rent was personally served to another adult residing with the tenant on June 12, 2015. The landlord also gave sworn testimony that he personally served another adult residing with the tenant with the Application for Dispute Resolution hearing package and Notice of hearing on June 28, 2015. I accept that the tenant was served with the 10 Day Notice.

The Act provides special requirements for service of an application for dispute resolution. Residential Tenancy Policy Guideline No. 12 states that,

All parties named on an application for Dispute Resolution must receive notice of proceedings... Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply. Failure to serve evidence properly may result in that evidence not being considered and the hearing proceeding, or the hearing being adjourned ...

The Application for Dispute Resolution hearing package must be served to the landlord by the tenant in one of three ways: personal service; registered mail; or by an order of the Residential Tenancy Branch. In this case, the landlord chose to attempt to serve the tenant by personal service. However, the personal service requirement in the case of an

Application for Dispute Resolution is limited beyond the methods considered acceptable in the service of a Notice to End Tenancy. An Application for Dispute Resolution from a landlord to a tenant must be served as follows;

... Where a landlord is personally serving a tenant, the landlord must serve by leaving a copy with the tenant. The landlord must serve a copy for each co-tenant.

This requires physically handing a copy of the document to the person being served. If the person declines to take a copy of the document, it may be left near the person so long as the person serving informs the person being served of the nature of the document being left near them.

According to the testimony of the landlord with respect to service, the landlord did not meet the requirements of service with respect to an Application for Dispute Resolution and Notice of Hearing. Sufficient service of these documents are fundamental to ensure that a fair hearing is conducted and that the respondent party has had an opportunity to know the case against them and the details (including the date and time) of a hearing for dispute resolution.

I find that landlord has failed to serve the application for dispute resolution documents in a way recognized by the Legislation. Therefore, I find that I am unable to consider his application at this time I dismiss the landlord's application with leave to reapply.

The landlord's application 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*.

Dated: August 26, 2015

Residential Tenancy Branch

