



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, OPM, MND, MNDC, MNR, FF

Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for unpaid utilities, cleaning and junk removal. The tenant did not appear at the hearing. The landlord initially testified that he served the tenant with the hearing package in person at the tenant's place of employment but he did not know the date he did so. I asked the landlord if he knew the month he did so and he said he believed it was in February 2017.

I noted that the landlord had originally filed this application on December 11, 2016 and a hearing package was sent to the landlord on December 12, 2016. The landlord filed an Amendment to change the last name of the tenant on January 3, 2017 and an amended Notice of Hearing was provided to the landlord to serve the tenant on January 9, 2017.

Under section 59 of the Act, an applicant is to serve the respondent with the hearing package within three days. I asked the landlord to explain why there was such delay in serving the tenant.

The landlord stated that the tenant moved out of the rental unit without providing his new address of residence or forwarding address. The landlord attempted to serve the tenant by sending registered mail to the tenant at the tenant's place of employment but the registered mail was not accepted at that address and returned to the landlord. After the registered mail was returned to the landlord the landlord went to the tenant's place of employment and served him in person at that location. The landlord did not have a witness for the personal service. I also noted that the registered mail receipt had not been provided as evidence. I asked the landlord to provide me with the date the registered mail was sent and the registered mail tracking number. The landlord responded by stating he did not have any paperwork for this proceeding in front of him as he had forgotten about the teleconference call until a few minutes before it started.

Where a party makes a monetary claim against another other party, the applicant must serve their Application for Dispute Resolution in a manner that complies with section 89(1) and must serve the Application for Dispute Resolution within three days of filing as required under section 59 of the Act.

Sending registered mail to a tenant's workplace is not compliant with section 89(1) unless that is the forwarding address the tenant provided to the landlord in writing or the applicant obtained an Order for Substituted Service from the Director authorizing the applicant to use such an address for service. In this case, the landlord acknowledged that the tenant had not provided him with any forwarding address and the landlord did not have an Order for Substituted Service.

As for the alleged personal service in February 2017 I find there to be insufficient proof and if it did take place in February 2017 it was well after the three day time limit which would have been December 15, 2016 for the original Application and January 13, 2017 for the Amendment and amended Notice of Hearing.

Of further consideration is that I found the landlord woefully unprepared to present his case in the absence of any documents or knowledge of specific information contained in his evidence package. As I informed the landlord, dispute resolution proceedings are a quasi-judicial and participants are expected to exercise due diligence in preparing to fully participate in their hearing and that, as the applicant, the landlord has the burden to present his case to me during the hearing. The Rules of Procedure provides for how a hearing is to be conducted. Rule 7.4 provides that "Evidence must be presented by the party who submitted it, or by the party's agent."

The landlord asked whether this matter could be heard on a different date. I declined to grant an adjournment as I was of the view that the landlord's insufficient service of the hearing documents and inability to present his evidence was due to his own failure to familiarize himself with the requirements of the Act and Rules of Procedure despite being provided a Fact Sheet on the dispute resolution process when he received his hearing package from the Residential Tenancy Branch. I have, however, dismissed this 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 08, 2017

Residential Tenancy Branch

