



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAKOLA RNH HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNRL-S

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities and a monetary Order for unpaid rent or utilities.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and to a monetary Order for unpaid rent?

Background and Evidence

The Agent for Landlord #1 stated that the Application for Dispute Resolution and the Notice of Hearing was personally served to the Tenant by a person with the initials "NW".

The Landlord did not submit any written documentation from "NW" that establishes he personally served the above documents to the Tenant. At the outset of the hearing the Landlord was given the opportunity to have "NW" dial into the teleconference. The Agent for the Landlord attempted to contact "NW" but by the time this hearing concluded at 9:53 a.m., there was no indication "NW" was intending to join the teleconference.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to

give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89 of the *Residential Tenancy Act (Act)*.

Section 89 of the *Act* stipulates authorizes a landlord to serve a tenant with an Application for Dispute Resolution by personally serving it to that party.

I find that the Landlord has submitted insufficient evidence to establish that the Tenant was personally served with the Application for Dispute Resolution and the Notice of Hearing was personally served to the Tenant by a person with the initials "NW". In reaching this conclusion I was heavily influenced by the absence of direct or documentary evidence from the individual who allegedly served these documents. In my view hearsay evidence from a third party is simply not sufficient to establish that these documents were personally served.

As the Landlord has failed to establish service of the Application for Dispute Resolution and the Notice of Hearing, I dismiss the Application for Dispute Resolution, with leave to reapply.

Conclusion

The Application for Dispute Resolution is dismissed, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution in regards to these claims.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: December 13, 2018

Residential Tenancy Branch