



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF / CNR RP

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Tenant:

- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- an order to the landlord to make repairs to the rental unit pursuant to section 32.

The hearing was conducted by conference call. The tenant did not attend this hearing. The landlord advised the tenant vacated the rental unit 3 days prior to the hearing date; therefore, he no longer requires an order of possession.

The tenant should have been aware of the hearing date, time and call in instructions as this dispute was first initiated by the tenant and she was required to serve a copy of the notice of hearing on the landlord.

Accordingly, in the absence of the tenant’s participation in this hearing, I order the tenant’s application dismissed in its entirety without leave to reapply.

Preliminary Issue: Service of Landlord’s Application

The landlord testified that he served the application for dispute resolution package by slipping the paperwork under the tenant’s door.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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 document]...*

I find the landlord has not demonstrated that the tenant has been served with the landlord's application for dispute resolution by any of the above manners as required by section 89(1) of the *Act*.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

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: December 06, 2019

Residential Tenancy Branch