



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNRL, MNDCL, FFL

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 sections 46 and 55;
- an Order of Possession for cause, pursuant to sections 47 and 55;
- a Monetary Order for unpaid rent, pursuant to sections 26 and 67;
- a Monetary Order for damage or compensation, pursuant to section 67; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:47 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:47 a.m. The landlord and his agent attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and his agent and I were the only ones who had called into this teleconference.

Preliminary Issue- Service

Section 89(1) of the *Act* states that 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*].

The landlord testified that the tenant moved out of the subject rental property in February of 2020 but that his roommate did not move out or pay rent. The landlord's agent testified that the tenant was served with the landlord's application for dispute resolution via registered mail on May 29, 2020 and that it was successfully delivered on June 9, 2020. The Canada Post tracking number was provided in the hearing and is located on the cover page of this decision. The landlord's agent testified that the registered mail was sent to the address of the subject rental property.

I find that the landlord's application for dispute resolution was not served in accordance with the *Act* because the application was sent to an address at which the tenant does not reside. I checked the Canada Post website and it confirmed that the package was picked up on June 9, 2020; however, it does not state who picked the package up. Any person residing at the subject rental property could have picked up the package. I am not satisfied that the tenant received notice of this hearing. I therefore dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application for recovery of the \$100.00 filing fee is dismissed without leave to reapply. The remainder of 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: June 20, 2020