



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail to the rental unit and by posting on the rental unit door on September 10, 2021 in accordance with Section 89. Section 90 of the *Act* deems documents served by registered mail to be received on the 5th day after they have been mailed and by posting them on the door to be received on the 3rd day after they have been posted.

However, the landlord also testified the tenant had moved out of the rental unit in August 2021. As the landlord served the hearing documents to the rental unit, by both registered mail and posting on the door, when the landlord knew the tenant was not living in the rental unit, I find the landlord has failed to serve the tenant with notice of this hearing and his Application for Dispute Resolution.

As the tenant was not served with Notice of this Hearing or the landlord's Application, I find this hearing cannot proceed as the tenant was never made aware of the claims made against them.

The landlord was concerned that he did not have possession of the rental unit, however I noted that since the tenant vacated the property in August 2021, the tenancy ended when the tenant vacated, pursuant to Section 44 of the *Act*. As such, I provided that the landlord did not require an order of possession and that the rental unit reverted to his possession when the tenant vacated the rental unit.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 26, 67, and 72 of the *Act*.

Conclusion

As the landlord had failed to serve the tenant with notice of this hearing and his Application for Dispute Resolution, I dismiss this Application in its entirety 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: April 04, 2022

Residential Tenancy Branch