



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This hearing was scheduled to hear the landlord's application for a Monetary Order for unpaid rent, damages or loss under the Act, regulations or tenancy agreement, retention of the security deposit or pet deposit, and recovery of the filing fee. The tenants did not appear at the hearing. The landlord testified that the tenants were personally served with the Application for Dispute Resolution on February 26, 2009 at the rental unit.

Issues(s) to be Decided

Have the tenants been sufficiently served with the landlords' Application for Dispute Resolution, evidence and amended application?

Background and Evidence

With respect to the landlords' documentary evidence, the landlord testified that the tenants had previously been given copies of the utility bills and tenancy agreement on various occasions throughout the tenancy.

Approximately two weeks before the scheduled hearing, the landlords amended the Application for Dispute Resolution. The landlord testified that the amendment was sent to the tenants' forwarding address by regular mail.

After a brief discussion on service requirements, the landlords requested that their application be withdrawn and dismissed with leave to reapply.

Analysis

Section 89(1) of the Act provides for the ways a party must serve another party with an Application for Dispute Resolution with respect to a monetary claim. Section 89(1) provides that the party making the application must serve the other party 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].

For the hearing, an applicant must be able to prove to the Dispute Resolution Officer that service of the Application for Dispute Resolution, including amendments, and all evidence that the applicant intends to rely upon, have been served upon the other party in a manner that complies with the Act. Where there is more than one respondent, the applicant must serve each respondent.

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The Rules of Procedure state that to the extent possible, the applicant must file copies of all available documents and other evidence at the same time the application is filed. If the evidence is not available at the time the application is made, the applicant may serve the other party and give the Residential Tenancy Branch the evidence up to five business days before the scheduled hearing. The method of service of the evidence upon the other party must also comply with the service provisions of section 89.

I find the original Application for Dispute Resolution was sufficiently served upon the tenants; however, the amended application was not. I find the landlords did not provide sufficient evidence that their evidence was served upon the tenants in a manner required by the Act.

I grant the landlords request for a dismissal with leave to reapply in order to serve the respondents in a manner that complies with the Act.

Conclusion

The landlords' application was 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: May 13, 2009.

Dispute Resolution Officer