



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

2

Decision and Reasons

Dispute Codes:

MNSD,

RPP

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

The Tenant and the Tenant’s witness gave affirmed evidence at the Hearing and the Hearing proceeded on its merits.

Introduction

This is the Tenant’s application for return of the security deposit paid to the Landlord and for an order that the Landlord return his bed.

Background and Evidence

The Tenant testified that he served the Landlord with the Notice of Hearing documents on March 19, 2009 by posting them through the Landlord’s mail box. The Tenant’s Witness attested to the service.

The Tenant testified that he provided the Landlord with written notification of his forwarding address on March 3, 2009, by posting it through the Landlord’s mail box.

The Tenant testified that both times he attempted to serve the Landlord personally, but she closed the door in his face.

The subject rental unit is furnished, but had no bed. In place of the bed was an air mattress, which slowly leaked air. The Tenant got a bed to replace the air mattress. The Landlord refused to return his bed to him when he moved out of the rental unit.

The Tenant testified that he moved into the rental unit on February 1, 2009, and vacated the rental unit by mutual agreement on February 28, 2009. The Tenant paid a security deposit in the amount of \$250.00 to the Landlord on February 1, 2009, and provided a copy of the receipt.

Analysis

At the Hearing, I advised the Tenant that he would have his monetary order, however, on consideration of the facts and evidence, I find that the Landlord was not served with the Notice of Hearing Documents in accordance with Section 89 of the Act.

Section 89 states:

Special rules for certain documents

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 documents].

The Landlord was present when the Tenant served her, however, she closed the door in his face and the Tenant placed the Notice of Hearing documents in her mail box. This is not one of the methods allowable under the Act.

Conclusion

The Tenant's application is dismissed with leave to re-apply.

June 16, 2009
