

Decision

Dispute Codes: MNR

Introduction

This hearing dealt with the landlord's application for a monetary order as compensation for unpaid rent. The landlord participated in the hearing and gave affirmed testimony. The tenant did not appear.

Issues to be decided

- Whether the tenant has been properly served with the application for dispute resolution and notice of hearing
- Whether the landlord is entitled to a monetary order under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the fixed term of tenancy was from August 1, 2008 to August 1, 2009. Rent in the amount of \$1,250.00 is payable in advance on the first day of each month, and a security deposit of \$625.00 was collected on July 17, 2008.

Without providing the landlord with proper notice pursuant to the Act, the tenant vacated the unit sometime during July 2009. The tenant did not provide a forwarding address, and put a stop payment on the post-dated cheque for July's rent.

The landlord testified that he served the tenant with the application for dispute resolution and notice of hearing by way of registered mail. However, he was unable to provide the registered mail tracking number. Further, the landlord testified that he hand delivered a copy of the application for dispute resolution and notice of hearing to the tenant's place of work, where he left the package with a receptionist.

In his application the landlord did not apply to retain the security deposit or recover the filing fee.

Analysis

Section 89 of the Act sets out **Special rules for certain documents** and includes provisions related to service of an application for dispute resolution. Specifically, this section of the Act provides in part, as follows:

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*].

Section 71 of the Act speaks to **Director's orders: delivery and service of documents**, as follows:

71(1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(a) that a document must be served in a manner the director considers necessary, despite sections 88 [*how to give or serve documents generally*] and 89 [*special rules for certain documents*];

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

Further to the above, Residential Tenancy Policy Guideline # 12 speaks to **Service Provisions**. The full text of the legislation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the limited documentary evidence and testimony of the landlord, I am unable to conclude that the application for dispute resolution and notice of hearing were served on the tenant pursuant to the above statutory requirements.

Conclusion

Pursuant to all of the above, I hereby dismiss the landlord's application with leave to reapply.

DATE: November 20, 2009

Dispute Resolution Officer