



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

MNDC, MNR, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent; and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenants via registered mail at the address noted on the Application, on June 29, 2010. The Agent for the Landlord stated that this is the male Tenant's mother's address; that the Tenants provided this address as their emergency contact address on January 03, 2009; that the Tenants did not provide a forwarding address at the end of the tenancy; and that the Tenant's did not give the Landlord permission to use the mother's address as a contact address at the end of the tenancy.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were personally served on the male Tenant's mother on October 28, 2010.

The Landlord submitted no evidence that suggests the Tenants received copies of the Application for Dispute Resolution and Notice of Hearing and neither Tenant attended the hearing.

Analysis

The purpose of serving the Application for Dispute Resolution to a tenant is to notify them that a dispute resolution proceeding has been initiated and to give a tenant the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the

Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) stipulates, in part, that a landlord must serve a tenant with an application for dispute resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant; or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

There is no evidence that either Tenant was personally served with the Application for Dispute Resolution package, therefore I find that neither Tenant was served in accordance with section 89(1)(a) of the *Act*.

The Agent for the Landlord stated that the Application for Dispute Resolution package was mailed to the Tenants at the male Tenant's mother's address, which was provided to the Landlord near the beginning of the tenancy. The Landlord submitted no evidence that causes me to conclude that either Tenant is currently residing at the mother's address and I cannot, therefore, conclude that either Tenant was served in accordance with section 89(1)(c) of the *Act*.

The Landlord submitted no evidence that causes me to conclude that the male Tenant's mother's address that was provided to the Landlord at the beginning of the tenancy can be considered as a forwarding address to be used at the end of the tenancy. This address was provided to the Landlord for emergency purposes and not to be used as a forwarding address. I cannot, therefore, conclude that either Tenant was served in accordance with section 89(1)(d) of the *Act*.

There is no evidence that the director authorized the Landlord to serve the Application for Dispute Resolution in an alternate manner, therefore I find that neither Tenant was served in accordance with section 89(1)(e) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenant received the Application for Dispute Resolution, therefore I cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

Conclusion

Having found that the Landlord has failed to prove service of the Application for Dispute Resolution, I hereby dismiss the Landlord's Application for Dispute Resolution, 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: November 10, 2010.

Dispute Resolution Officer