



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MNSD, MNDC

Introduction

This conference call hearing was convened in response to the landlord's application for a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for unpaid rent or utilities, and to keep all or part of the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by leaving it with the front desk attendant at the tenant's new place of residence. The landlord stated that the tenant resides at a non-profit society assisting the marginalized population in Kamloops with finding suitable accommodations. The tenant did not call in to the conference call.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The landlord testified that: the rental unit consists of a bachelor suite in a multi unit complex; pursuant to a written agreement, the month to month tenancy started on

September 1st, 2011 and ended on or about October 18th, 2011; the monthly rent of \$520.00 was payable on the first of each month; and the tenant paid a security deposit in the amount of \$260.00.

The landlord said that the tenant did not pay rent for October 2010. She made a claim for that amount, in addition to cleaning, new locks, storage and filing for the sum of \$710.00.

Analysis

Section 89(1) of the *Residential Tenancy Act* states:

*“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’s method of delivery does not fall in any of the methods allowed by statute. Therefore in that context I am not satisfied that the tenant was properly served and had knowledge of the date scheduled for this hearing.

Section 71(1) of the Act provides in part that the director may order that a notice may be served by substituted service in accordance with the order.

Conclusion

I find that the tenant was not served with the hearing documents and therefore had no notice of the claim made against her. The landlord's application is dismissed with leave to reapply. The landlord may make an application for substituted service pursuant to Section 71(1) of the Act.

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: March 10, 2011.

Residential Tenancy Branch