



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OLC, MNDC

Introduction

This conference call hearing was convened in response to the tenant's application for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

The tenant participated in the hearing and provided affirmed testimony. At the outset, he testified that he was not aware of the proper service of documents under section 89(1) of the Act, and that he discussed the dispute with the landlord by email and telephone.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for loss of quiet enjoyment?

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 tenant's testimony did not convince me that the landlord was properly served and that he had knowledge of the date scheduled for this hearing.

Conclusion

The landlord was not served with the hearing documents in accordance with the Act and therefore had no notice of the claim made against him. The tenant's application is 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: April 12, 2011.

Residential Tenancy Branch