



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenant – MNDC, OPT, LAT, FF, O

For the landlord – OPR, OPB, MND, MNR, MNDC, SS, FF

Introduction

This hearing was scheduled to hear two applications, one from the tenant and one from the landlord. However, no hearing took place today as I am not satisfied that either party has been served with the other Parties application and Notice of hearing. The tenant states he served the landlord by registered mail to an address that the landlord had as his service address on the tenancy agreement. The tenant also states he posted a copy of the application and Notice of hearing to the door of his unit which the landlord received. The landlord states he no longer lives at that address and had given the tenant his agents name and address on the 10 Day Notice to End Tenancy. The landlord states he did not therefore receive the registered mail. The landlord agrees he did get the tenants documents that were posted on the door of the unit but these documents did not contain the second page of the tenants' application and was therefore incomplete. Due to this the landlord states he is not aware what the tenant is applying for.

The landlord states he served the tenant to an address of a storage unit and to another address at a print shop in the locality. The landlord states he e-mailed the tenant informing him where he could collect the hearing documents. The tenant states he did not get either of the hearing packages from the landlord.

S. 89 of the *Act* states that hearing documents must be served in a manner specified under this section of the *Act*.

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].

(2) An application by a landlord under section 55 *[order of possession for the landlord]*, 56 *[application for order ending tenancy early]* or 56.1 *[order of possession: tenancy frustrated]* must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) as ordered by the director under section 71 (1)
[director's orders: delivery and service of documents].

Therefore, I cannot confirm that either party has been sufficiently served in accordance to s. 89 of the *Act*.

Conclusion

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. In the absence of proof that either party have been served with the hearing documents in accordance with the *Act*, or that the address used for service is the landlords current address, I dismiss both applications 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: June 23, 2011.

Residential Tenancy Branch