

DECISION

Dispute Codes:

MNDC, OLC, RR.

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant seeking a Monetary Order for compensation for damage or loss under the Act in the form of a retroactive and continuing rent abatement as well as an Order compelling the landlord to complete emergency repairs.

The tenants were present but the landlord did not appear.

Preliminary Matter

At the outset of the hearing, the tenant advised that the respondent was served in person to an agent of the landlord at his residence, which, according to the tenant was where they were directed by the new owners to pay the rent. This address was different than the address shown for the respondent, on the tenant's application for dispute resolution and the tenant was not able to provide adequate details as to the address. There was no documentary proof placed in evidence to confirm what the landlord's service address was for this tenancy.

Sections 88 and 89 of the Act determine the method of service for documents. The tenant has applied for a Monetary Order which requires that the respondent be served as set out under Section 89(1). This requires service in one of the following ways:

- (a) by leaving a copy with the person, (personal service);
- (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*].

In addition, the Residential Tenancy Rules of Procedure, Rule 3.1, states that the applicant must serve each respondent with a copy of the Application for Dispute Resolution, along with copies of all of the following: a) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch; b) the dispute resolution proceeding information package provided by the Residential Tenancy Branch; c) the details of any monetary claim being made, and d) any other evidence accepted by the Residential Tenancy Branch with the application or that is available to be served.

In this case I find that the applicant has not sufficiently proven that the respondent was served in compliance with section 89 of the Act.

Having found that the tenant has failed to prove adequate service of the Notice of Hearing, I find that this application must be dismissed.

Conclusion

Based on the above, I find that the tenant's application must be dismissed and I do so 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: August 31, 2011.

Residential Tenancy Branch