



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for money owed or compensation for damage or loss and to recover the cost of the filing fee from the landlord for this application.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order under section 67 and 72 of the *Residential Tenancy Act*?

Background and Evidence

The landlord did not appear at the hearing.

The tenant testified that service of the Notice of Dispute Resolution and Hearing package was delivered to the landlord via delivery to a person residing with or was in the home of the landlord.

Analysis

Section 89 of the Residential Tenancy Act describes ways in which documents must be delivered, including 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. The Act defines registered mail **as** including any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.

Additionally the hearing documents may be delivered personally to the respondent, according to Section 89 of the Act.

The testimony supports that the Hearing Package was delivered to someone in the landlord's home.

I therefore find that service of the Notice of Dispute Resolution was not in accordance with Section 89 of the *Act*.

To find in favour of an application for a monetary claim, 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. As I have found the tenant failed to comply with the service of documents in accordance with the *Act*, I **dismiss** the tenant's application, **with leave to reapply**.

As the tenant has not been successful with his application, I find that he is not entitled to recover the cost of the filing fee from the landlord.

Conclusion

I DISMISS the tenant's application, 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: September 28, 2011.

Residential Tenancy Branch