



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, FF, O

Introduction

This is the Tenants' application for compensation for damage or loss under the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlords.

The Tenants and their witness gave affirmed testimony at the Hearing.

Preliminary Matters

The female Tenant testified that the Tenant GP served the Landlords with the Notice of Hearing documents by handing the documents to the male Landlord at the rental unit with a witness present. The female Tenant was not sure what date service took place. The Tenant GP was not available to give testimony at the Hearing.

The Tenants' witness testified that she accompanied the Tenant GP to the Landlords' house, but was not certain of the date. She stated that she went to the door because the Tenant GP was concerned the Landlords would recognize him and would not answer the door. The witness testified that she knocked on the door, which was answered by a woman. The woman told the witness that she was the female Landlord's sister and that the Landlords were not home. The witness testified that she took the documents back to the car, where the Tenant GP was waiting.

The female Tenant testified that within 3 days of receiving the Notice of Hearing documents from the Residential Tenancy Branch, the Tenant GP went back to the Landlords' house and posted the Notice of Hearing documents on the Landlords' door.

The female Tenant testified that she believes she also sent the Notice of Hearing documents by registered mail to the Landlords, but she is not certain and cannot find the registered mail receipt or tracking number.

Section 89(1) of the Act provides for the methods of service required when making an Application for Dispute Resolution that includes a request for a monetary award.

Section 89(1) states:

Special rules for certain documents

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].

The Landlords did not sign into the teleconference and I find that the Tenants have not provided sufficient evidence that they served the Landlords in accordance with the provisions of Section 89(1) of the Act. Therefore, I dismiss the Tenants' application with leave to reapply.

Conclusion

The Tenants' 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: November 02, 2011.

Residential Tenancy Branch