



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MND; MNSD; MNDC; FF

Introduction

This is the Landlords' application for a Monetary Order for damage to the rental unit; for compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit towards their monetary award; and to recover the cost of the filing fee from the Tenant.

The Landlords gave affirmed testimony at the Hearing.

The conference remained open for 15 minutes, but the Tenant did not sign in.

Preliminary Matters

The Landlords testified that they mailed the Notice of Hearing documents, by registered mail, to the Tenant at an address that they were provided by a third party. The Landlords provided a tracking number for the registered mail. A search of the Canada Post Tracking system indicated that the tracking number was an "invalid number".

The Landlords testified that the Tenant's legal advocate was named as a Respondent on their Application because she represented the Tenant at a previous Hearing and also at the end-of-tenancy Condition Inspection.

The Landlords testified that they served the Tenant's legal advocate with the Notice of Hearing documents by handing the documents to her on February 6, 2012, at 12:19 p.m. The Landlords stated that the Tenant's legal advocate acknowledged receipt of the documents on behalf of the Tenant by signing a "piece of paper".

The Landlords did not provide copies of the registered mail receipts, or the "piece of paper" signed by the Tenant's legal advocate.

Analysis

Section 89(1) of the Act states:

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].
(emphasis added)

I find that the Landlords did not provide sufficient evidence that they served the Tenant in accordance with the provisions of Sections 89(1)(c) or (d). I also find that there is insufficient evidence to find that the Tenant was sufficiently served pursuant to the provisions of Section 71 of the Act. The Landlords did not attempt to serve the Tenant in accordance with the provisions of Section 89(1)(a) of the Act. The Landlords did not provide a valid tracking number for the registered mail and there was insufficient evidence that the Tenant resided at the address given to the Landlord by the third party.

I find that the Landlords did not provide sufficient evidence that the Tenant's legal advocate was served, or that she remains the Tenant's legal advocate and therefore prepared to accept delivery of documents on behalf of the Tenant.

Therefore, I dismiss the Landlords' application with leave to reapply.

Conclusion

The Landlord'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: March 29, 2012.

Residential Tenancy Branch