



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MND, FF

Introduction / Background / Evidence

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent or utilities / compensation for damage to the unit, site or property / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

As to the address for service of the application for dispute resolution and notice of hearing (the "hearing package"), the landlord's agent acknowledged during the hearing that the tenants had not provided a forwarding address following the end of tenancy. Rather, the landlord's agent testified that she had privately determined what she considered was the tenants' current residential address, and that a hearing package was sent to each of the two (2) tenants at that address. Evidence submitted by the landlord's agent includes the Canada Post tracking numbers for each of the two (2) packages. However, in the case of each package, the Canada Post website informs as follows: "Recipient not located at address provided. Item being returned to sender."

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 88 of the Act speaks to **How to give or serve documents generally**. Section 89 of the Act addresses **Special rules for certain documents**, and provides in part as follows:

89(1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 or 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*].

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that as the tenants have not been served with the landlord's hearing package, the landlord's application must be dismissed with leave to reapply.

Conclusion

The landlord's application is hereby 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: June 7, 2012.

Residential Tenancy Branch