



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF, SS

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for a return of his security deposit, for recovery of the filing fee and an order for substituted service.

The tenant appeared and gave affirmed testimony. The landlord did not attend the telephone conference call hearing.

When questioned about the service of the application and Notice of Hearing (the "Hearing Package"), the respondent responded alleging that he did not have a residential address for landlord and that he served the hearing package at the landlord's place of employment. A tracking number was provided and delivery to an unknown person was confirmed.

The tenant through his application requested an order for substituted service.

Issue(s) to be Decided

Is the tenant entitled to an order for substituted service?

Is the tenant entitled to a monetary order and to recover the filing fee?

Analysis

Section 89 of the Residential Tenancy Act requires that an application for dispute resolution be served upon the respondent (the landlord in this case) in person, or if a landlord, by leaving a copy with an agent of the landlord, by registered mail to the address at which the person resides, or if a landlord, by registered mail to the address at which the person carries on business as a landlord.

Additionally Residential Tenancy Branch Policy Guideline states that the party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and
- that the substituted service is likely to result in the party being served having actual knowledge of what is being served

Conclusion

I find the tenant failed to serve the landlord his application for dispute resolution in a manner required by the Act when he sent the registered mail to the landlord's place of employment.

I also find that the tenant submitted insufficient evidence at this hearing that the landlord cannot be served by any of the methods permitted by the Act. The tenant provided no details that he had made any attempts to locate the landlord otherwise.

Due to the above I therefore dismiss the tenant's application, with leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

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 01, 2012.

Residential Tenancy Branch