



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

OPR, OPB, MNR, MNDC, MNDC, MNSD, FF

Introduction

This Dispute Resolution hearing was held to deal with an Application by the landlord for a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, (the *Act*).

The landlord was in attendance. The tenant did not appear.

At the outset of the hearing, the landlord advised that the tenant had already vacated the unit. Therefore the landlord's requests indicated on the application seeking an Order of Possession for unpaid rent or for breaching an agreement, were moot. The landlord was still seeking monetary compensation.

Preliminary Issue

The landlord testified that the tenancy began on March 1, 2010 and ended on June 23, 2012 and the tenant left owing rent and other debts to the landlord.

According to the landlord, on July 19, 2012 the landlord served the tenant with the Notice of Hearing package by registered mail sent to the dispute address. The applicant provided a Canada Post tracking number to confirm service by registered mail.

Section 89 of the Act states that an application for dispute resolution, when required to be served by the landlord to the tenant, must either be given directly to the person or sent by registered mail to the address at which the person resides or to a written forwarding address provided by the tenant.

Section 90 of the Residential Tenancy Act determines that a document sent by registered mail is deemed to have been served in 5 days.

In this instance I find that the service date for the Notice of Hearing sent by registered mail was deemed to be July 24, 2012. As the tenant had vacated the unit prior to that date, I find that the documents were served to an address where the tenant no longer

resided. The landlord testified that he was advised that the mail would likely be forwarded to the tenant's new address by Canada Post. The landlord testified that Canada Post could not release the address change to the landlord.

The burden is on the Applicant to prove that the service was within the above provisions. As the landlord served the documents to an address that was not the tenant's current residence, I find that the mailing of the package to the tenant's former address would not meet the definition of service by registered mail to the "*address at which the person resides*". I find that there was no valid service of the hearing package in compliance with the Act.

Given the above, I find that the matter under dispute cannot proceed because the landlord has not proven that the tenant was properly served. Accordingly, I dismiss this application with leave to reapply at a later date should the landlord wish to do so, once a service address has been located for the respondent.

Conclusion

Based on evidence and testimony, I hereby dismiss this 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: August 08, 2012.

Residential Tenancy Branch