



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RPP

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order requiring the landlord to return the tenant's personal property pursuant to section 65.

The landlord did not attend this hearing, although I waited until 3:12 p.m. in order to enable him to connect with this teleconference hearing scheduled for 3:00 p.m. The tenant attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Background and Preliminary Issue- Service of Dispute Resolution Hearing Package

The tenant testified that he rented a manufactured home in a manufactured home park from the landlord during the first week of May 2012. He said that he was paying the landlord \$450.00 per month for this rental until the landlord removed him from the manufactured home during the first week of November 2012. The tenant is seeking the return of his personal property, which he maintained the landlord continues to hold in storage in the landlord's pawn shop.

The tenant testified that on November 30, 2012, he served the landlord with his dispute resolution hearing package by handing it to a woman who has received his rent cheques at the landlord's place of business, a pawn shop. He said that the landlord had never created a written residential tenancy agreement for this tenancy, nor had the landlord given the tenant his mailing address. The tenant said that the way he communicated with the landlord during his tenancy was through "Lisa" the woman who worked at the landlord's place of business. He testified that she gave him rent receipts, although the tenant has little documentation regarding this matter because he was forced to leave the manufactured home on short notice due to pressure applied by the landlord to end his tenancy.

Analysis

Section 89(1) of the *Act* establishes the following Special rules for serving certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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 document]...*

Although the tenant testified that the woman at the landlord's place of business frequently acted as the landlord's agent, the tenant provided no documentation or confirming testimony from anyone that this was the case. The tenant provided no written evidence other than his application for dispute resolution. The tenant did not know the full name of the person he claimed had acted as the landlord's agent during this tenancy. In the absence of more definitive evidence from the tenant with respect to his service of the dispute resolution hearing package, I advised the tenant that I was not satisfied that the individual identified as the landlord in the tenant's application had been served with the tenant's dispute resolution hearing package in accordance with the *Act*. I advised the tenant that I was dismissing his application for dispute resolution with leave to reapply as I was not satisfied that he had demonstrated that he had served the landlord with notice of his application and this hearing in a manner required by section 89(1) of the *Act*.

At the hearing, I suggested that the tenant first submit a written request to the landlord to return his personal possessions to him. If the landlord does not comply with this written request and the tenant needs to apply for dispute resolution to resolve this matter, the tenant should consider either handing the landlord a copy of the tenant's dispute resolution hearing package directly, accompanied by a witness, or sending it to the landlord by registered mail to the address where the landlord conducted his business as a landlord.

Conclusion

I dismiss the tenant's 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: January 09, 2013

Residential Tenancy Branch

