



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Properties Limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNR, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows.

1. A Monetary Order for unpaid rent - Section 67;
2. An Order to recover the filing fee for this application - Section 72.

The landlord attended the conference call hearing but the tenant did not. The landlord testified that they sent the tenant the notice of Hearing package by registered mail to the dispute address on November 20, 2012 - which according to the landlord, the tenant may have vacated prior to mailing the registered mail. A forwarding address was not provided by the tenant and the landlord does not know the tenant's whereabouts. The landlord did not employ other means to serve the tenant.

Section 89 of the Act states as follows (**emphasis for ease**)

Special rules for certain documents

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*].

I am not satisfied by the testimony in this matter that the tenant was residing at the dispute address at the time the registered mail for service was sent. I am not satisfied the tenant was served with notice of this hearing pursuant to Section 89 of the Residential Tenancy Act, and that the tenant is aware of this proceeding.

Therefore, **I dismiss** the landlord's application, but I do so with leave to reapply. None of the potential merits of this application were heard.

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: February 20, 2013

Residential Tenancy Branch

