



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Application for Substituted Service

Dispute Codes SS

Introduction

This hearing dealt with the tenant's application pursuant to section 71 of the *Residential Tenancy Act* (the *Act*) for authorization to serve documents or evidence in a different way than required by the *Act*.

Residential Tenancy Guideline #12 deals with the service of documents. With respect to orders for substitutional service, the Guideline states:

An application for substituted service may be made at the time of filing the application or at a time after filing. 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...*

The tenant provided sworn oral testimony and written evidence to support his assertion that he attempted to serve the landlord with his application for dispute resolution to recover his security deposit in 2011. By way of a January 17, 2012 decision, the Dispute Resolution Officer who reviewed that application dismissed his application with leave to reapply because he was not satisfied that the tenant had served the Notice of Hearing Documents in accordance with the *Act*.

On this basis, I am satisfied that the tenant has met the first of the tests outlined above. However, I must also be satisfied that the method described by the tenant is likely to result in the landlord being served with the tenant's dispute resolution hearing package.

The tenant testified that he was able to locate the landlord through checking her Facebook page and determining that she is working at her family's ranch in the interior

of B.C. He testified that a friend of his called that ranch and confirmed that she does indeed work at that location. He asked that service by email to the ranch in question be considered substituted service for his application.

At the hearing, I advised the tenant that there were a number of deficiencies in his application that prevented me from allowing his application. I noted that he has not provided direct evidence, either written or sworn testimony from the person who he claimed called the landlord's place of business, to confirm that he was told that she actually works there. I also noted that the written evidence he submitted as to the address for the ranch where the landlord is working varies from the mailing address he identified on his application for dispute resolution. Although the landlord maintained that the mailing address, a post office box in another community, is the correct mailing address for the landlord's employer, his only written evidence conflicted with the address he identified as the landlord's employer. Finally, although he requested substituted service by email to the landlord's employer, he did not include that email address in his application for dispute resolution or any of the written material he submitted. Even with that email address, it would be unlikely that an order of substituted service would be issued to an email address where there was no history of communication between the tenant and the landlord.

Given the deficiencies in the tenant's application, I am not satisfied that the tenant has met the burden of proof required to demonstrate that service by the method requested would result in the landlord having actual knowledge of what is being served.

Conclusion

I dismiss the tenant's request for an Order for substituted service 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 22, 2013

Residential Tenancy Branch

