



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NACEL PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR, MND, MNDC, MNSD, FF

Introduction

This Dispute Resolution hearing was set to deal with an Application by the landlord for a monetary order for rent owed, compensation for cleaning and damages and an order to keep the security deposit.

Only the landlord appeared.

Preliminary Matter

At the outset of the hearing the landlord testified that he had served the tenant with the hearing documents by Express Post and provided proof of the mailing and delivery.

However the landlord did not choose the option, offered by Canada Post, that the recipient must sign for the Express-Post mail when it is delivered. Instead, this Express Post mail was delivered without the requirement of a signed confirmation of receipt by the tenant.

The landlord has applied for a Monetary Order under section 67 of the Act which requires that the landlord serve the tenant as set out under Section 89(1). This requires service in one of the following ways:

- (a) by leaving a copy with the person, (personal service);**
- (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*].

Had the landlord chosen the option offered by Canada Post, requiring the addressee's signature to accept the package upon delivery, the Express Post mail would be considered to be the same as sending it by registered mail and would therefore meet the above requirements of the Act.

However, in this case, the landlord had served the documents by Express Post mail *without* choosing the signature-on-delivery Option. Because there was no requirement for the addressee to sign for the delivery, I find that the landlord has not sufficiently met the requirement under the Act for proper service of the hearing package to the respondent.

Having found that the landlord has failed to prove adequate service of the Notice of Hearing and Application for Dispute Resolution I have determined that the landlord's application will be dismissed with leave to reapply.

Conclusion

The landlord's application is dismissed with leave to reapply as the hearing package must be served in accordance with the Act.

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: March 11, 2013

Residential Tenancy Branch