



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes SS, MND, MNDC and FF

Introduction

This hearing was convened on an application made by the landlord on January 23, 2013, initially seeking a Monetary Order for unpaid rent due to the tenant's breach of the fixed term agreement, damage to the rental unit and recovery of the filing fee for this proceeding. However, as the landlord had not been able to locate the tenant, the application was amended to add a request for Substitute Service under section 71 of the *Act*.

Issue(s) to be Decided

Is there a sufficient probability of effective service under the option sought by the landlord to warrant an order for substitute service?

Background and Evidence

This tenancy began on December 15, 2012 under a fixed term agreement set to end on November 30, 2013. Rent was \$1,595 per month and the landlord held a security deposit of \$800.

The tenancy was the subject of a hearing on November 28, 2012 in which the landlord was given a Monetary Order for unpaid rent for October 2012 and authorization to retain the security deposit in set off.

In the present application, the landlord sought unpaid rent for November and damage to the rental unit.

The landlord has submitted a written statement from a professional process server indicating that he had attended the tenant's place of employment twice, the first time to be told she was not there and the second to be told that she was on sick leave. The employer provided a home address, but on the second of two failed attempts to contact the tenant there, the process server was told she had moved up island. As stated by the landlord at the hearing, she was believed to be staying in Courtenay.

Analysis

In order to approve a request for substitute service, I must be satisfied that there is a reasonable probability of successful service under the proposed method of service. As the server appears to have been previously misdirected, and as the tenant's current location appears to have been temporary, I find that the landlord's request to serve the tenant by way of her employer does not carry the probability of success. Therefore, I deny the request for substitute serve and the application is dismissed with leave to reapply.

Conclusion

The request for substitute service is declined and the application 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: April 15, 2013

Residential Tenancy Branch