



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, MNSD, , FF

Introduction

This Dispute Resolution hearing was held to deal with an Application by the landlord for a monetary order for compensation for rental arrears under the *Residential Tenancy Act*, (the *Act*).

The landlord was in attendance. The tenant did not appear.

Preliminary Issue

The landlord testified that on July 19, 2013 the landlord sent the hearing package to the tenant by registered mail to the only address that the landlord had, which was the tenant's Post Office Box affiliated with the dispute address. The landlord testified that they tracked the package through the Canada Post website and found that it was not accepted by the recipient.

The landlord testified that the address used on the application form for the tenant is the tenant's workplace address.

Because the landlord is seeking a monetary order, I find that the tenant was not properly served with this Application in compliance with Section 89 of the Act. This section of the Act states that an application for dispute resolution, when required to be served by the landlord to the tenant, must either be given directly to the person or sent by registered mail to the address at which the person resides or to a written forwarding address provided by the tenant.

In this instance the Notice of Hearing was sent by registered mail to a Post Office Box affiliated with a property from which the tenant had already vacated, rather than to the tenant's current residential address.

The burden is on the applicant to prove that the service was within the above provisions. As the landlord served the documents to an address that was not confirmed to be that of the tenant's current residence, I find that this would not meet the definition

of service by registered mail to the “*address at which the person resides*” and is therefore not valid service under the Act.

Given the above, I find that the matter under dispute cannot proceed because the landlord has not proven that the tenant was properly served and I therefore have no choice under the Act but to dismiss this application with leave to reapply at a later date should the landlord wish to do so, once the residential service address has been located for the respondent.

Based on evidence, I hereby dismiss this application with leave to reapply.

Conclusion

The landlord is not successful in the application as service of the hearing package to the address where the tenant resides was not sufficiently proven and the 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: August 29, 2013

Residential Tenancy Branch