



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, FF

Introduction

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

1. A Monetary Order for the return of the security deposit and compensation of double the amount – Section 38 and Section 67
2. An Order to recover the filing fee for this application - Section 72.

The tenant attended the conference call hearing but the landlord did not. The tenant testified that they sent the landlord the Notice of Hearing package by regular express mail to the address at which the landlord resides. The tenant did not employ other means to serve the landlord.

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*].

It must be noted that **registered mail** is defined in the Act as a “*method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.*” It must further be noted that refusal to accept registered mail is not a ground for review.

In this matter I am not satisfied the landlord was served with notice of this hearing pursuant to Section 89 of the Residential Tenancy Act, or that the landlord is aware of this proceeding.

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

Conclusion

The tenant'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: October 30, 2013

Residential Tenancy Branch

