



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, MNSD, MNDC, MND, FF

Introduction

This Dispute Resolution hearing was held to deal with an Application by the landlord for submitted on November 1, 2013 seeking a monetary order for unpaid rent and damages.

The hearing was also convened to hear an application by the tenant who applied on October 3, 2013 seeking compensation for moving costs for an unfair eviction and seeking a refund of the security deposit.

Both the landlord and tenant were in attendance. The landlord testified that he was not able to serve the tenant with the hearing documents to her current address as the tenant did not provide their current address after vacating.

Preliminary Issue

Landlord's Application

The tenant testified that they did not receive the landlord's hearing package and were not aware of the landlord's application, nor the evidence submitted by the landlord.

The landlord testified that the tenant moved out on October 20, 2013 and did not leave a forwarding address. Therefore, the landlord was unable to serve the tenant with the landlord's application and the evidence.

The landlord testified that when he received the tenant's October 3, 2013 application, seeking a monetary order, the address was shown as the rental unit as the tenant was still residing in the rental unit on October 3, 2013. However, the tenant subsequently moved out without leaving a forwarding address. The landlord stated that he was therefore deprived of the opportunity to submit

evidence in response to the tenant's application and claim and also could not rebut the tenant's later evidence served on the landlord.

The tenant acknowledged that she did not provide their forwarding address to the landlord after moving on October 15th, 2013, but stated that they were in touch with the landlord by email, telephone and text. The tenant still felt that the landlord should have returned the security deposit as per a verbal agreement allegedly made between them.

Section 89 of the Act states that an application for dispute resolution, when required to be served by the applicant to the respondent, must either be given directly to the person or sent by registered mail. In the case of a landlord serving the tenant, it must be served to the address at which the person resides or to a written forwarding address provided by the tenant.

I find that no written forwarding address was provided by the tenant.

In this instance I find that by November 1, 2013, the tenant was no longer residing at the dispute address and the landlord did not have a forwarding address where he could send his application and evidence to the tenant.

Therefore, I find that the landlord's application for dispute resolution and the accompanying evidence was never properly served to the address where the tenant was currently residing.

Accordingly, I am not able to hear the landlord's application and I dismiss the application with leave to reapply.

Tenant's Application

With respect to the tenant's application package for the dispute resolution hearing, I accept that the tenant's application and evidence was properly served on the landlord.

However, because the tenant moved from the subject address on October 20, 2013, before the landlord was able to submit a response, and the tenant left no address where they could be served, I find that the landlord was genuinely deprived of the right to serve his evidence in response to the tenant's application.

Therefore, I find that I am not able to proceed with hearing and determining the tenant's application under these circumstances as it would be contrary to natural justice and administrative fairness to do so.

For the reasons stated above, I find that none of the matters under dispute in these two applications can proceed because the landlord could not prove that his documents were served in accordance with the Act and the tenant failed to ensure that her forwarding address or other service address was provided to the landlord after she moved out on October 15 or 20th, 2013.

The tenant has now provided the landlord with a current forwarding address and the landlord confirmed that he recorded the address as of today's date.

I hereby dismiss both the tenant's and the landlord's applications with leave to reapply..

Conclusion

Based on evidence and testimony, I hereby dismiss both the landlord's and the tenant's application with leave to reapply due to failure to properly serve and failure to provide a current address for service.

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: November 13, 2013

Residential Tenancy Branch

