



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:08 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Issue to be Decided

Has the landlord served the tenant with her dispute resolution hearing package, including notice of this dispute resolution hearing, in accordance with the *Act*?

Service of Landlord's Dispute Resolution Hearing Package

In her application for dispute resolution, the landlord identified the high school where the tenant was attending as the tenant's mailing address. She said that he abandoned his tenancy at her rental unit without leaving a forwarding address. She said that she attempted to serve her dispute resolution hearing package, including the Notice of a Dispute Resolution Hearing and the landlord's application for dispute resolution, to the student at his high school. As she was unsuccessful in handing it to the tenant, she gave it to the tenant's high school counsellor, who said that he/she would forward it to the student (tenant). The landlord testified that she subsequently received confirmation from the counsellor that the counsellor had handed the hearing package to the student. The landlord did not call the counsellor as a witness, but said that she had the counsellor's name and phone number.

Analysis – Service of Landlord's Dispute Resolution Hearing Package

Section 89 of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution for a monetary award:

89(1) An application for dispute resolution,...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 document]...*

The landlord has not served the tenant in a manner required by section 89(1) of the *Act*. I am not satisfied that the tenant was properly served with the landlord's application for dispute resolution.

At the hearing, I noted that the landlord would need to obtain a substituted service order from an Arbitrator appointed under the *Act*, if she plans to try to serve the tenant in a way that varies from that established in section 89(1)(a) to (d) of the *Act*. I gave no indication as to whether an application for a substituted service order would be approved by an Arbitrator.

Conclusion

I dismiss the landlord's application 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: November 14, 2013

Residential Tenancy Branch

