



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 25, 2013, by the Tenant to obtain a Monetary Order for the return of double her security deposit.

Issue(s) to be Decided

Has the Tenant met the burden of proof for service of the hearing documents?

Background and Evidence

The Tenant appeared and testified that she served the Landlord the hearing documents via registered mail. The Tenant did not have the Canada Post tracking information with her and was not able to testify as to the date the hearing documents were sent. Upon further clarification the Tenant stated that she did not know where the Landlord was currently residing so she sent the hearing documents to addresses the Landlord had occupied in the past, in two different cities.

Analysis

Section 89(1) of the Act stipulates that 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*].

In the absence of the respondent Landlord, the burden of proof of service of the hearing documents lies with the applicant Tenant. The Tenant testified that she served the hearing documents by registered mail, to addresses where the Landlord may no longer reside. Based on the foregoing, and in the absence of Canada Post Tracking information, I find insufficient evidence to prove service was effected in accordance with section 89 of the Act, as listed above.

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with section 89 of the Act, I dismiss the Tenant's claim, with leave to reapply.

Conclusion

I HEREBY DISMISS the Tenant's claim, with leave to reapply.

This dismissal does not extend any time limits set forth in the *Residential Tenancy Act*.

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: March 24, 2014

Residential Tenancy Branch

