



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC FF

Introduction and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution under 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, and to recover the filing fee.

The tenant and a witness for the tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") was considered. The tenant testified that his application, Notice of Hearing and evidence was placed in the mailbox of the landlord and was witnessed by "LC". LC testified that she witnessed the tenant place the Notice of Hearing package which contained the tenant's evidence in the landlord's mailbox on November 27, 2013.

Section 89(1) of the Act indicates the ways in which an application for dispute resolution must be given, such as in the case of the tenant's claim for a monetary order:

- (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 matter before me, the tenant served his application, Notice of Hearing and evidence by placing them in the mailbox of the landlord, which I find is equivalent to posting to the landlord's door which is not one of the ways permitted under section 89(1) of the *Act*.

Both parties have the right to a fair hearing. The landlord would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing and the tenant's application. Therefore, **I dismiss** the tenants' application **with leave to reapply** as the landlord has not been sufficiently served with the Notice. I note this decision does not extend any applicable time limits under the *Act*. The tenant is reminded to serve the landlord using one of the ways described under section 89(1) of the *Act*.

Conclusion

The tenant's application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 11, 2014

Residential Tenancy Branch

