



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Unique Accommodations
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:18 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 sworn testimony, to make submissions and to call witnesses.

Issues(s) to be Decided

Has the landlord served the dispute resolution hearing package to the tenant in accordance with the *Act*?

Preliminary Issue- Service of Landlord's Application for Dispute Resolution

The landlord's representative (the landlord) testified that he served a copy of the landlord's dispute resolution hearing package by sending the tenant this package by registered mail on November 22, 2013. He provided a copy of the Canada Post Tracking Number to confirm this registered mailing. He testified that this package and the landlord's written evidence package sent on January 24, 2014 were returned by Canada Post as unclaimed.

The landlord said that the tenant did not provide the landlord with any forwarding address after she abandoned the rental unit on or about June 23 or 24, 2013. The landlord testified that he checked credit bureau records shortly before he sent the

hearing package to the tenant in November 2013, and learned that the tenant is now listing her residence as the address where he sent her the dispute resolution hearing and written evidence packages. He said that he has attempted to serve her documents at this residence and has also tried to serve her documents at her office, to no avail.

Analysis – Service of Landlord's Application for Dispute Resolution

The landlord has applied for a significant monetary claim of \$8,480.85 against the tenant. Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for any 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]...*

As the tenant did not provide the landlord with her forwarding address at the end of this tenancy, the landlord has not served the tenant with the dispute resolution hearing package in accordance with section 89(1)(d) of the *Act*. The landlord has not applied for substituted service of the application for dispute resolution pursuant to sections 89(1)(e) and 71 of the *Act*. Under these circumstances, the only possible way that I could find that the landlord had served the application for dispute resolution and dispute resolution package to the tenant were if I were to find that the landlord had send a copy "to the address at which the person resides."

The tenant did not provide the landlord with the mailing address where the landlord mailed her the copy of the application for dispute resolution and dispute resolution hearing package. Both that package and the landlord's subsequent written evidence package sent to that mailing address were returned unclaimed to the landlord by Canada Post. The landlord has not seen the tenant at the mailing address where he sent the hearing package, although he has knocked at that door to speak with her to no avail. His sole evidence that the tenant resides at the address where he sent the hearing package by registered mail was his sworn testimony that he checked the credit

bureau records and determined that she lived there. He provided no written evidence to substantiate his claim in this regard and gave no first hand evidence linking her to that mailing address in any way other than his sworn testimony regarding his check of credit bureau records.

Under these circumstances, I am not satisfied that the landlord has adequately demonstrated that the tenant resides at the mailing address where he sent the dispute resolution hearing package by registered mail. I find that the landlord has not served the tenant in a manner required by section 89(1) of the *Act* and dismiss the landlord's application for dispute resolution with leave to reapply.

Conclusion

I dismiss the landlord's application for dispute resolution 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: March 12, 2014

Residential Tenancy Branch

