



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

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

- authorization to obtain a return of a portion of her security deposit pursuant to section 38; and
- a authorization to recover her filing fee for this application from the landlord pursuant to section 72.

The Respondents did not attend this hearing, although I waited until 9:45 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The Applicant/tenant (the tenant) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Preliminary Issue: Service of Documents

The tenant testified that she served the Respondents with her dispute resolution hearing package by sending it to them by registered mail. She did not have either the date when she mailed this package to the Respondents, nor did she have the Canada Post Tracking Number to confirm this registered mailing. The tenant testified that the Canada Post Online Tracking System revealed that her dispute resolution hearing package was signed by the Concierge at the building where she sent her hearing package. While she was willing to attempt to locate that information from one of her colleagues who might be able to access this information, she also testified that the Respondents did not provide her with the mailing address where she sent her hearing package. She testified that she obtained the mailing address from those who moved the male Respondent, who was formerly a tenant in the premises she rented from him and the female Respondent. Other than the female Respondent's name and signature on the Residential Tenancy Agreement she entered into with the Respondents, the tenant said that she has had no contact with the female Respondent and does not know her at all.

Analysis: Service of Documents

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order.

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;*
 - a. as ordered by the director under section 71(1) [director's orders: delivery and service of document]...*

Under these circumstances, I find that the tenant has failed to demonstrate that she sent her hearing package to the Respondents by registered mail and that the location she sent her hearing package was, in fact, the address where the Respondents reside. The tenant has not applied for a substituted service order pursuant to section 71 of the *Act*, which would enable her to serve documents to the Respondents in a manner not specifically outlined in section 89(1) of the *Act*. As I find that the tenant has not demonstrated service of her dispute resolution hearing package including her application for dispute resolution and Notice of Hearing, I dismiss the tenant's application with leave to reapply.

Conclusion

I dismiss the tenant'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: March 14, 2014

Residential Tenancy Branch

