



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

MNDC, MNR, MNSD, OPR, MND, FF

Introduction

This Dispute Resolution hearing was held to deal with an Application by the landlord for a monetary order for compensation for damage or loss under the *Residential Tenancy Act*, (the *Act*). The landlord was in attendance. The tenant did not appear.

Preliminary Issue

The landlord testified that on March 4, 2014 the landlord sent the hearing package by registered mail to an address that the landlord had obtained in December 2013 through a search of credit records. The address apparently on record at this source was a Post Office Box in a nearby municipality.

The landlord submitted an Affidavit of Service into evidence along with a copy of the Canada Post tracking information showing that the parcel was never picked up. The landlord testified that in the locality where the tenant was presumed to be residing, the mail is never delivered directly to any street addresses, only to Post Office boxes.

Because the landlord is seeking a monetary order, and based on the testimony given by the landlord, I find that the tenant was not properly served with this Application in compliance with Section 89 of the Act. This section states that an application for dispute resolution, when required to be served by the landlord to the tenant, must either be given directly to the person or sent by registered mail to the address at which the person resides or to a written forwarding address provided by the tenant.

In this instance the Notice of Hearing was sent by registered mail to a Post Office Box rather than to the tenant's current address where the tenant is actually residing.

In addition to the above, I find that the landlord did not furnish sufficient documentary evidence to confirm how the tenant's forwarding address was obtained and I therefore find that there is no way to ascertain that the address found by the landlord is accurate.

The burden is on the applicant to prove that the service was within the above provisions. As the landlord served the documents to an address that was not confirmed to be that of the tenant's current residence, I find that this would not meet the definition of service by registered mail to the "*address at which the person resides*" and is therefore not valid service under the Act.

Given the above, I find that the matter under dispute cannot proceed because the landlord has not proven that the tenant was properly served and I therefore have no choice under the Act but to dismiss this application with leave to reapply at a later date should the landlord wish to do so, once the residential service address has been located for the respondent.

Based on evidence and testimony, I hereby dismiss this application with leave to reapply.

Conclusion

The landlord's application is dismissed with leave for failure to sufficiently prove that the Notice of Hearing was served on the tenant in accordance with the 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: June 19, 2014

Residential Tenancy Branch

