



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

This hearing dealt with an application by the landlord for a monetary order for unpaid rent; for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; and to recover the RTB filing fee.

The landlord attended the teleconference hearing and gave evidence, however the tenant did not attend. The landlord gave evidence that she served the tenant with the Notice of a Dispute Resolution Hearing and Landlord's Application for Dispute Resolution (the "Hearing Documents") by registered mail on February 20, 2014.

The landlord gave evidence that she sent the Hearing Documents to the tenant's parents' house in Shawnigan Lake because she knew that he lived there when he was in town. Asked how she knew that, the landlord said the tenant works at a camp in Alberta for 10 days and then has 5 – 7 days back home. The landlord also noted that the tenant's cheques have the Shawnigan Lake address on them.

The landlord received an email from the tenant on November 30, 2013 saying that he had "just got another job in Victoria" that would last until after Christmas. When the tenant did not return to the rental unit in Cobble Hill, the landlord contacted the tenant's parents to ask if they wished to remove his belongings from the rental unit. The tenant's parents declined. The landlord gave evidence that she received a text message from the tenant's father at the end of December 2013 saying that the tenant had returned to Alberta. The landlord understood that to mean that the tenant would again be working at a camp for 10 days on, then 5 - 7 days off.

Asked if there was any other reason the landlord believed that the tenant resided at his parents' house, the landlord noted that the tenant has a dog and the tenant's parents often look after the dog. Since the tenant was working in the oilfields, the landlord assumed that he would be back with his parents when he was not at work.

Section 88 sets out a number of methods for serving documents, including the following:

(c) by sending a copy by ordinary mail or 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 a business as a landlord;

(d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;

In this case, the tenant did not provide a forwarding address. At issue is whether the landlord had a reasonable basis for believing that the tenant “resides” at his parents’ house.

It is possible that the tenant was residing with his parents at the time the landlord sent him the Hearing Documents. However, I find the landlord has not proven on a balance of probabilities that the tenant was residing there at that time. For that reason, I find the tenant was not properly served with the Hearing Documents.

Since service was not effective, I dismiss the landlord’s application with leave to reapply.

Conclusion

The landlord’s application is dismissed, 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: July 10, 2014

Residential Tenancy Branch

