



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DIVERSIFIED PROPERTIES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT CNC

Introduction

This hearing dealt with an Application for Dispute Resolution filed on May 29, 2014, by the Tenant for more time to make his application to dispute a Notice to end tenancy issued for cause and to cancel the 1 Month Notice to end tenancy issued for cause.

The applicant Tenant appeared at the teleconference hearing; however, no one appeared on behalf of the respondent Landlord.

Issue(s) to be Decided

Has the Tenant proven the Landlord was sufficiently served notice of this proceeding?

Background and Evidence

At the outset of this proceeding the Tenant initially stated that he served the Landlord with copies of his application for Dispute Resolution and Notice of hearing document by regular mail. Then he stated that he placed the documents through the mail slot of the Landlord's office as he had attended their office during non-business hours.

The Tenant argued that although he knew he was supposed to send the documents by registered mail, he did not for the following reasons: registered mail can be expensive; the Landlord served the 1 Month Notice to him by posting it to his door; and he has had landlords in the past serve him hearing documents by registered mail.

Analysis

Section 89(1) of the Act stipulates that an application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 documents*].

In the absence of the respondent Landlord, the burden of proof of service of the hearing documents lies with the applicant Tenant. The Tenant provided contradictory testimony on how he served the Landlord the documents, regular mail and through the mail slot. Neither method of service is provided for under section 89(1) of the Act, as noted above. Therefore, I find there to be insufficient evidence to prove the Landlord was served with Notice of this proceeding, in accordance with the Act.

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with section 89 of the Act, I dismiss the Tenant's claim, without leave to reapply.

Conclusion

I HEREBY DISMISS the Tenant's claim, without 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 17, 2014

Residential Tenancy Branch

