



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR MNSD OLC RR

Introduction

This hearing dealt with an Application for Dispute Resolution filed on May 14, 2014, by the Tenant to cancel a 10 Day Notice to end tenancy for unpaid rent, to obtain a Monetary Order for the return of her security deposit, to order the Landlord to comply with the Act, regulation or tenancy agreement, and to allow the Tenant reduced rent for repairs, services or facilities agreed upon but not provided.

Issue(s) to be Decided

1. Has the Tenant served the Landlord with notice of this proceeding, in accordance with section 89 of the Act?

Background and Evidence

The Tenant affirmed that she served the Landlord with a copy of her application for Dispute Resolution and the Notice of Hearing document by taping the documents to the door of the main house, which was vacant and located on the same property as her rental unit.

Upon further clarification, the Tenant indicated that the property had been sold to the named respondent and no one was living in the main house at the time she filed her application. She initially stated she could not recall the date that she taped the hearing documents to the door and later stated that she did so on May 14, 2014, the same day she filed her claim.

The Tenant stated that she vacated the property on approximately May 24, 2014, so all she was seeking was monetary compensation for the Landlord cutting off her cable, taking down her pool, and for having to come up with the money to move when the real estate company gave the Landlord papers that said "tenant stays as is".

Analysis

Section 89 of the *Residential Tenancy Act* determines the method of service for application documents. The Tenant has applied for a Monetary Order which requires that the Tenant serve the respondent Landlord with a copy of her application for Dispute Resolution and the notice for dispute resolution in accordance with section 89 (1) of the Act.

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 this case the Tenant posted the hearing documents to the door of a vacant house located on the same property as her rental unit. Therefore, I find the application and hearing documents were not served upon the Landlord in accordance with section 89(1) of 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. In the absence of the Landlord, and having found the service of documents not to have been effected in accordance with section 89(1) of the Act, I dismiss the Tenant's claim, with leave to reapply.

Conclusion

I HEREBY DISMISS the Tenant's claim, with leave to reapply.

This dismissal does not extend any time limits set forth in the *Residential Tenancy 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: July 07, 2014

Residential Tenancy Branch

