



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, MNR, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have made application for a monetary Order for return of double the security deposit, compensation for damage or loss under the Act, the cost of emergency repairs and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

The tenant present at the hearing provided affirmed testimony that she attempted to serve the landlord by sending hearing documents to the rental unit address; and that registered mail was returned.

Originally the tenants dealt with an agent for the landlord. Later in the tenancy the landlord directed the tenants to contact them only; an address for the landlord was not supplied to the tenants. During the tenancy the landlord had used the rental unit address for receipt of personal mail; which the tenants would give to the landlord.

After failing to successfully serve the landlord via registered mail, the tenant, who lives in another Province, was in British Columbia on September 11, 2014 and went to the rental unit. The occupant of the home told the tenant that she had been told not to accept any documents for the landlord. The tenant then left a copy of the hearing documents and evidence in the mail box at the rental unit.

The tenant thought that service to the rental unit would qualify as the landlord's place of business.

The tenant has made many attempts to communicate with the landlord and believes they are avoiding service.

Neither respondent attended the hearing.

As the tenant attempted to serve the landlord at the rental unit address I find that service cannot be proven. Section 89 of the Act allows service, as follows:

89 (1) *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].*

(Emphasis added)

As the landlord does not carry out business at the rental unit I find that service to that address is not sufficient. The tenant did not deny that the landlord only rents the property and does not reside there or carry out their business at the property.

Therefore, I find that service to the 2 respondents is not proven and that the application is dismissed with leave to reapply within the legislated time-frame.

The tenant is at liberty to serve by the methods required in the legislation, including seeking out an Order for service permitted under section 89(e) of the Act.

Conclusion

The application is dismissed with leave to reapply.

This decision is final and binding and 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: November 14, 2014

Residential Tenancy Branch

