



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, FF

This hearing dealt with an application by the landlord for a monetary order. The tenant did not participate in the conference call hearing. The landlord provided evidence that he served the tenant with the application for dispute resolution and notice of hearing via ExpressPost sent on August 28. Section 89 of the Act provides that documents served via mail must be served by registered mail. The landlord did not serve the documents by registered mail and chose a means of service for which a signature is not required. I found that I could not hear the claim as the tenant had not been properly served. However, in the course of discussing service, the landlord stated that the tenant is the principal of a numbered company to which the landlord rented the property for the purpose of running a recovery home.

Section 4 of the Act provides in part as follows:

4 This Act does not apply to

(d) living accommodation included with premises that

- (i) are primarily occupied for business purposes, and
- (ii) are rented under a single agreement,

I find that the tenant rented the residence for the express purpose of operating the business of a recovery home. I therefore find that section 4(d) of the Act operates to exclude the jurisdiction of the Act. The landlord may not seek relief through the Residential Tenancy Branch but is free to pursue his claim in Provincial Court.

The claim is dismissed for lack of jurisdiction.

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: March 20, 2015

Residential Tenancy Branch

