



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNDC MNR MNSD O OPB OPR SS FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlords on September 18, 2015, to obtain monetary compensation of \$2,501.41.

The hearing was conducted via teleconference and was attended by two Landlords, B.L. and S.L. At the outset of the proceeding S.L. stated that she was not able to attend the full hearing and stated that she wished to have B.L. act on her behalf. B.L. then disconnected from the teleconference and B.L. proceeded with the hearing providing affirmed testimony on behalf of both Landlords. Therefore, for the remainder of this decision, terms or references to the Landlords importing the singular shall include the plural and vice versa.

Issue(s) to be Decided

Have the Landlords proven that each named respondent has been sufficiently served copies of the application for Dispute Resolution, Notice of this proceeding, and copies of their evidence?

Background and Evidence

The Landlord testified that the Tenants were served via registered mail. Only one Canada Post tracking number was submitted in the Landlord's oral and documentary evidence. The Landlord asserted that there were two separate packages sent to the Tenants at the same address with one Canada Post tracking number.

The Landlord stated that the package was not returned to them; therefore, the package had to have been delivered to both Tenants. The Canada Post website showed no record of the tracking number submitted in evidence.

Analysis

Section 59(3) of the *Act* stipulates that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

The Residential Tenancy Branch Rules of Procedure # 3.1 stipulates that the applicant must, within 3 days of the hearing package being made available by the Residential

Tenancy Branch, serve **each** respondent with, among other things, copies of the application for dispute resolution, the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch; a detailed calculation of any monetary claim being made; and any other evidence the application wishes to rely upon. [My emphasis added].

In the absence of the respondent Tenants, the burden of proof of service of the hearing documents lies with the applicant Landlords. The Landlord testified that the Tenants were each served via registered mail and despite there being only one tracking number, the Landlord argued that there were two separate packages sent to the same address.

Canada Post tracking information tracks individual mailings. Individual packages or envelopes are not assigned the same tracking number as another envelope or package for the simple fact that if the packages were separated there would be no way to differentiate when each package was delivered and or returned to sender. Therefore, I concluded that only one envelope or one package had been sent to the Tenants' address, based on the evidence that only one tracking number was provided.

The Canada Post website showed no record of the tracking number submitted in evidence which prevented the Landlord from knowing which Tenant signed for the package which would effect service to that Tenant. Ultimately the Landlord was not able to prove that each Tenant or that even one Tenant was sufficiently served notice of this proceeding.

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 of a claim brought against them and to be able to defend their rights. As I have found insufficient evidence to prove service of the application and hearing documents, I dismiss the Landlords' application, with leave to reapply.

Conclusion

I HEREBY DISMISS the Landlords' application, with leave to reapply.
This dismissal does not extend any deadlines set forth by the *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: April 23, 2015

Residential Tenancy Branch

