



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0851927 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for a monetary order for damage to the rental unit pursuant to section 67; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:58 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

Preliminary Issue: Service of Documents

With respect to service, the landlord testified that his Application for Dispute Resolution package with Notice of Hearing was served to the tenant by registered mail on March 10, 2015. A copy of the Canada Post receipt and tracking information were provided by the landlord for evidence at this hearing. The landlord submitted that the tenant had applied for Dispute Resolution on an earlier date. He testified that he used the address the tenant had provided on that previous application to serve the tenant with his Application for Dispute Resolution. He provided a copy of a monetary order issued at that previous dispute resolution hearing. The order is dated April 29, 2014. The landlord submitted that the tenant did not attend this previous hearing.

Residential Tenancy Policy Guideline No. 12 provides the details of the service requirements for Residential Tenancy Dispute Resolution hearings,

The respondent's address may be found on the tenancy agreement, in a notice of forwarding address, in any change of address document or in an Application for Dispute Resolution.

The landlord testified that he found the tenant's address in an Application for Dispute Resolution however he did not provide documentary evidence to support this testimony or verify that this is the accurate address to serve the tenant. Further, the order that the landlord supplied in his materials relates to a decision of the Residential Tenancy Branch dated over one year ago (April 29, 2014). I do not find that it is reasonable to assume that this previous address reflects the tenant's address at the time of the landlord's registered mail (March 10, 2015).

According to Policy Guideline No. 12, "[where] a landlord is serving a tenant by registered mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant." The landlord has not provided evidence that satisfies me that he has sent the Application for Dispute Resolution to the address where the tenant resided at the time of his registered mailing.

I find that the landlord has not proven that the tenant has been served with this Application for Dispute Resolution. Policy Guideline No. 12 states,

All parties named on an application for Dispute Resolution must receive notice of proceedings... Failure to serve documents in a way recognized by the Legislation ... [or]... serve evidence properly may result in that evidence not being considered and the hearing proceeding, or the hearing being adjourned.

As a result of this lack of service, I dismiss the landlord's application for a monetary order with leave to reapply.

As the landlord has not been successful in this application, I find that he is not entitled to recover his filing fee in this matter.

Conclusion

The landlord's application is dismissed in its entirety. The landlord's application for a monetary order pursuant to section 67 of the *Act* is dismissed with 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: September 18, 2015

Residential Tenancy Branch

