



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY 21 PRUDENTIAL ESTATES (RMD) LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on March 27, 2015, to obtain monetary compensation of \$2,900.00.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance for the Tenant.

Issue(s) to be Decided

Has the Landlord proven that the Tenant has been sufficiently served copies of their application and Notice of this proceeding in accordance with the *Act*?

Background and Evidence

The Landlord testified that the Tenant was served via registered mail to two separate addresses, the rental unit address and a business address that was listed at the bottom of one of the Tenant's emails.

The Landlord submitted documentary evidence of two registered mail receipts which were dated March 20, 2015. There were no other registered mail receipts submitted into evidence. The Landlord reference the aforementioned receipts when submitted evidence regarding service of his application to the Tenant. No other evidence oral or documentary was submitted regarding service of the Landlord's application or hearing documents.

Analysis

The *Residential Tenancy Act* (the *Act*) stipulates provisions relating to these matters as follows:

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.

Section 89(1)(c) of the *Act* stipulates in part, 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 a tenant, if sent by registered mail it must be sent 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.

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

In the absence of the respondent Tenant, the burden of proof of service of the hearing documents lies with the applicant Landlord. The Landlord submitted evidence that the Tenant was served documents via registered mail to the rental unit address after she had moved out and to a business address.

The Landlord's documentary evidence included Canada Post receipts dated March 20, 2015, which is seven days prior to when the Landlord filed their application for dispute resolution. The Landlord did not provide evidence of another Canada Post tracking receipt during the hearing, nor was he able to confirm an exact date the package would have been sent that contained their application.

Based on the above, I find the Landlord submitted insufficient evidence to prove the Tenant was served notice of their application and this proceeding in accordance with section 89(1) of the *Act*. Accordingly, I dismissed the Landlord's application, with leave to reapply. This dismissal does not extend any deadlines set forth by the *Act*.

Conclusion

The Landlord was not successful in proving service of their application or the hearing documents. The application was 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 04, 2015

Residential Tenancy Branch

