



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid utilities and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67.

The tenant did not attend this hearing, which lasted approximately 21 minutes. The landlord SS ("landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Landlords' Application

The landlord testified that the tenant was served with the landlords' application for dispute resolution hearing package ("Application") on April 27, 2015, by way of registered mail. The landlords provided a copy of a Canada Post receipt and tracking number with their Application.

The landlord confirmed that the package was successfully delivered to an address provided by the tenant to the landlord on December 1, 2013. The landlord stated that she confirmed this address with the tenant over the telephone in August 2015. The landlord indicated that the tenant was party to Court proceedings where she was served with documents at this same address. The landlord noted that a hearing was held before the Residential Tenancy Branch in February 2015, where the tenant was present and the tenant was sent a copy of the decision after the hearing at the same address. The landlord stated that the address was likely an employment address of the tenant, but she was unsure.

Analysis – Service of Landlords' Application

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

89 (1) An application for dispute resolution ..., 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;...

(c) by sending a copy by registered mail to the address at which the person resides ...;

*(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].

The landlords have failed to sufficiently demonstrate that the tenant was served in accordance with section 89(1) of the *Act*. The landlords did not provide sufficient evidence that the tenant provided the forwarding address to the landlord recently. The landlord stated that the tenant provided the forwarding address almost two years prior. As I am unable to confirm that this was an address where the tenant resides or a forwarding address provided by the tenant in accordance with section 89(1)(d) of the *Act*, I am not satisfied that the tenant was properly served with the landlords' Application.

For the above reasons, I am not satisfied that the tenant was served with the landlords' Application in accordance with section 89(1) of the *Act*. At the hearing, I advised the landlord that I was dismissing the landlords' entire Application with leave to reapply. I advised the landlord that the landlords would be required to make a new application if they wished to pursue this matter further.

Throughout this hearing and particularly when giving my oral reasons, the landlord became increasingly upset and repeatedly interrupted me. I warned the landlord several times about her conduct during this conference and the fact that it was inappropriate. However, the landlord continued with the same behaviour, despite my warnings. The landlord frequently repeated the same questions and comments throughout the hearing. Despite my attempts to clarify the same information repeatedly, the landlord continued to ask the same questions and make the same comments. I confirmed that the landlord understood my decision and that the landlords would be required to make a new application if they wished to pursue this matter, prior to closing the hearing.

Conclusion

The landlords' entire Application 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 30, 2015

Residential Tenancy Branch