



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC

Introduction and Preliminary Matter

This hearing was convened as a result of the Landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for authorization to keep all or part of the security deposit, and for a Monetary Order for money owed or compensation for damage or loss under the *Act*.

The Landlord attended the teleconference hearing. During the hearing the Landlord was given the opportunity to provide her evidence orally. A summary of her testimony is provided below and includes only that which is relevant to the hearing.

As the Tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing") was considered. The Landlord testified that the Tenant vacated the rental unit without providing a forwarding address. The Landlord further testified that she served the Tenant with the Notice of Hearing by registered mail to the Tenant's address on his driver's license. When I asked the Landlord if she had any evidence to suggest the Tenant resided at that address she said she did not.

Section 89(1) of the *Residential Tenancy Act* provides that a Landlord may serve a Tenant their Application for Dispute Resolution by sending a copy by registered mail *to the address at which the person resides*. The full section reads as follows.

Special rules for certain documents

- 89** (1) 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 one party by another, must be given in one of the following ways:
- (a) by leaving a copy with the person;
 - (b) if the person is a landlord, by leaving a copy with an agent of the landlord;

- (c) by sending a copy by registered mail 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;
- (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*].

Although the address on the Tenant's driver's license may have been the address at which he resided at one time, there was no evidence to support a finding that he resided there *at the time* the registered mail was sent.

The Landlord testified that she sent an email to the Tenant regarding her application; apparently the Tenant responded to this email. Email is not an accepted form of service pursuant to section 89.

Accordingly, I find that the Landlord has failed to serve the Tenant in accordance with section 89. The Landlord's Application is dismissed with leave to reapply.

Conclusion

The Landlord failed to serve the Tenant in accordance with section 89 and her application is therefore 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: October 01, 2015

Residential Tenancy Branch

