



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDC, MNR, MND, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit and to keep all or part of the security deposit?

Background and Evidence

The Agent for the Landlord stated that she does not know if the Application for Dispute Resolution and the Notice of Hearing were served to either Tenant, as that would have been done by "head office".

The Agent for the Landlord requested an adjournment to provide the Landlord with additional time to submit evidence in support of the Landlord's claims. She stated the Landlord has been unable to submit evidence due to a change in personnel.

I note that the only evidence the Landlord has submitted to date are two express post receipts for packages that appear to have been sent to the Tenants. The receipts, which were submitted to the Residential Tenancy Branch on August 13, 2015, do not have legible dates on them that establish when the packages were mailed.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that each tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution 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) by sending a copy by registered mail to a forwarding address provided by the tenant; or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

As the Agent for the Landlord was unable to provide any details regarding how the Application for Dispute Resolution was served, I find I am unable to conclude that the Application was served to the Tenants in accordance with section 89(1) of the *Act*.

Although Canada Post documentation has been submitted in evidence that appears to indicate a package has been mailed to each Tenant on an undisclosed date, there is no evidence to establish the content of those packages. As I cannot conclude that the packages mailed contained the Application for Dispute Resolution, I am unable to conclude that the Application was served to the Tenants in accordance with sections 89(1)(c) or 89(1)(d) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenants received the Application for Dispute Resolution, therefore I cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*.

As the Landlord has failed to establish that the Tenants were served with the Application for Dispute Resolution, I am unable to proceed with the hearing in the absence of the Tenants. The Landlord's Application for Dispute Resolution is therefore dismissed, with leave to reapply.

I note that since the hearing is not proceeding, there is no need to consider the Agent for the Landlord's request for an adjournment for the purposes of submitting evidence in support of the claim.

Conclusion

The Landlord's Application for Dispute Resolution 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: January 05, 2016

Residential Tenancy Branch

