



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OTBEC PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MND, MNR, MNSD, MNDC, FF

Introduction

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

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 0946 in order to enable the tenant to connect with this teleconference hearing scheduled for 0930. The landlord's agents attended the hearing.

Preliminary Issue – Service

The agent KF testified that the landlord served the tenant with the dispute resolution package by registered mail on 14 March 2016 sent to the rental unit. The landlord provided me with a Canada Post tracking number. The agent KF testified that the tenant abandoned the rental unit on or before 1 March 2016.

Service of the dispute resolution package in an application such as the landlord's must be carried out in accordance with subsection 89(1) of the Act:

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 or, ...;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;...

The tenant no longer resided at the rental unit at the date of service. This address was not provided as a forwarding address by the tenant. On this basis, the landlord has not successfully served the tenant in accordance with the Act. For this reason, I dismiss the landlord's application with leave to reapply.

As discussed at the hearing, the landlord may find the following provisions and guidelines of assistance:

- Pursuant to subsection 60(1) of the Act a party has two years from the end date of the tenancy to commence an application.
- Section 39 provides that:
 - Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,
 - (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
 - (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.
- *Residential Tenancy Policy Guideline, "12. Service"*

Conclusion

The landlord's application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable timeline.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: April 22, 2016

Residential Tenancy Branch