



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNDC, MNR, MNSD, FF

Introduction

This was a hearing with respect to the landlord's application for a monetary award. The hearing was conducted by conference call. The landlord's representatives called in and participated in the hearing. The tenants did not call into the hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary award and if so, in what amount?
Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

The rental unit is a house in Sooke. The tenancy began September 1, 2012 for a two year term ending August 31, 2014. According to the landlord's evidence, in November, 2013, the applicant was appointed to manage the rental property for the owner and act as landlord. At the end of December, 2013 the landlord's representative discovered that the tenants had moved out of the rental unit without giving notice and without providing a forwarding address.

The landlord's representative testified that she learned of the tenants' whereabouts in March, 2015. She said they were living in a house that was being shown and marketed for sale and they were in the process of being evicted. The landlord filed this application for dispute resolution on October 15, 2015. The documents were sent to the address where the tenants were residing in March. According to Canada Post records when delivery of the registered mail was attempted it was ascertained that the intended recipients did not reside at the address for delivery. The registered mail was returned to the landlord.

Analysis

Section 89 of the *Residential Tenancy Act* provides that an application for dispute resolution must be given to a person by leaving a copy with the person, by sending a copy by registered mail to the address at which the person resides, or, If the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant.

In the present case, the landlord's representative discovered in March, 2015 that the tenants were living at the named address, but were apparently in the process of being evicted. The landlord sent the application and Notice of Hearing to the tenants at that address in October, some six months later. According to Canada Post records the tenants did not reside at the address when delivery was attempted.

I find that the landlord has not established that the tenants have been served with the application for dispute resolution and the Notice of Hearing as required by the *Residential Tenancy Act* and the landlord's application is therefore dismissed with leave to reapply. Leave to reapply does not constitute an extension of any applicable time limit.

Conclusion

The application has been 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: May 05, 2016

Residential Tenancy Branch