



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OLC, FF

Introduction

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

- authorization to obtain a return of all or a portion of his security deposit and pet damage deposit pursuant to section 38;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I waited until 1344 in order to enable the landlord to connect with this teleconference hearing scheduled for 1330. The tenant attended the hearing.

Service

The tenant vacated the rental unit on or about 31 July 2016. The tenant testified that he was served a notice to vacate as the landlord was selling the house. The tenant testified that he believed the landlord began occupying the rental unit as he saw the landlord move some of his belongings into the rental unit. The tenant testified that the landlord was previously of no fixed address.

The address for service provided on the condition inspection report used at the beginning and end of tenancy and on the tenancy agreement is that of the landlord's agent. The tenant testified that the landlord terminated his relationship with the landlord's agent at the end of the tenancy.

The tenant sent the dispute resolution package to the rental unit address on 14 November 2015. The tenant provided me with a Canada Post tracking number. The mailing was returned on the basis that it was "refused", but not before it was rerouted to a different address that is a post office box in the same municipality. The tenant provided me with a copy of the returned mailing.

Service of the dispute resolution package in an application such as the tenant'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;
- (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;...

The tenant has not provided evidence that the landlord resided in the rental unit as at 14 November 2015. The evidence available suggests that the landlord has ceased to reside at that unit as his mail was forwarded. The business address used for this tenancy was the agent's address provided in the tenancy agreement and on the condition move out inspection. This address was not used for service of the dispute resolution package.

On the basis of the evidence provided I am unable to find that the landlord has been duly served with the dispute resolution package in accordance with subsection 89(1) of the Act. For this reason, the tenant's application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable time limit.

The tenant may find *Residential Tenancy Policy Guideline*, "12. Service Provisions" helpful in any subsequent application. In particular, the portion in relation to "substituted service" may assist.

Conclusion

The tenant's 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 subsection 9.1(1) of the Act.

Dated: June 06, 2016

Residential Tenancy Branch