



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

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

- a monetary order for unpaid rent, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1359 in order to enable the tenant to connect with this teleconference hearing scheduled for 1330. The landlords attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord SSA (the landlord) provided testimony on behalf of the landlords.

Preliminary Issue – Service

There have been three prior applications in respect of this tenancy that have been heard over two prior hearing dates.

The first and second applications were heard together on 17 April 2015. In those applications, the corporate landlord (acting as agent for the landlords) sought an order of possession for landlord's use and the tenant and her cotenant sought reinstatement of utility services and compensation for the unlawful removal of those services. The landlord attended the hearing.

The arbitrator hearing these two claims issued a monetary order in the tenants' favour in the amount of \$3,500.00. The corporate landlord did not satisfy the monetary amount

and the tenant and her cotenant initiated enforcement proceedings in the British Columbia Provincial Court. The parties attended a hearing at that Court. The tenant and co-tenant were successful in enforcing the order against the corporate landlord. The landlord attended that hearing. The landlord testified that at that hearing, the cotenant provided an address for service to the Court (the Service Address).

In the third application, the corporate landlord brought a claim for compensation; however, the corporate landlord did not complete service in accordance with the Act.

The landlord testified that the landlords served the tenant with the application for dispute resolution on 16 November 2016 by registered mail. The landlords provided me with a Canada Post customer tracking number. The landlord testified that the tenant did not provide a forwarding address to the landlords. The landlord testified that the landlords used the Service Address provided to the Court in the enforcement hearing.

Service of the dispute resolution package in an application such as the landlords' 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 ...;

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

Service by registered mail is contemplated by both paragraphs 89(1)(c) and 89(1)(d) of the Act. The Service Address was not provided by the tenant as her forwarding address; rather, the address was received at the Court hearing from the cotenant. The landlord testified that he believed that the address was the address at which tenant resides. The landlord did not conduct any investigation to determine that the Service Address was the residence of the tenant at the time of service and the landlord did not provide any documentation indicating that the registered mailing was accepted. Based on this evidence, I am not satisfied that the tenant was served at the place at which she resides or at the forwarding address provided by the tenant.

For these reasons, the landlords' application is dismissed with leave to reapply. Leave to reapply is not an extension of any applicable time limit.

The landlords may find *Residential Tenancy Policy Guideline*, “12. Service Provisions” helpful in any subsequent application. In particular, the landlords may wish to consider whether an application for substituted service is appropriate.

Conclusion

The landlords’ 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 13, 2016

Residential Tenancy Branch