



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

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

- a monetary order for money owed or compensation for damage or loss under the Act, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 12 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant's Application

The tenant testified that the landlord was served with the tenant's application for dispute resolution hearing package ("Application") by way of registered mail on December 1, 2015. The tenant provided a Canada Post tracking number verbally during the hearing. She testified that the Application was returned back to her.

The tenant testified that the landlord was served with the Application at the rental unit address. She stated that this was the last known address she had for the landlord. She said that the landlord was living there when she filed her last application in April 2015.

Section 89(1) of the Act outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

89 (1) 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, if the person is a landlord, to the address at which the person carries on business as a landlord;***

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

(e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].

I find that the tenant failed to provide sufficient evidence that the landlord was served with the tenant's Application at an address at which he resides or carries on business, in accordance with section 89(1) of the *Act*. The landlord did not attend this hearing. The Application package was sent back to the tenant. The tenant last used this mailing address, which is the rental unit address, in April 2015. The tenant did not provide documentary or witness evidence to show that the landlord still lives at this address.

As the tenant failed to prove service in accordance with section 89(1) of the *Act*, I find that the landlord was not served with the tenant's Application. I notified the tenant that she could apply for an order for substituted service under section 71 of the *Act*, if required.

At the hearing, I advised the tenant that I was dismissing her Application to recover the \$100.00 filing fee without leave to reapply and her Application for a monetary order with leave to reapply.

Conclusion

The tenant's Application to recover the filing fee is dismissed without leave to reapply.

The remainder of 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 04, 2016

Residential Tenancy Branch