



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, FF

Introduction

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

- a monetary order for unpaid rent and for damage to the rental unit pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

Preliminary Issue – Late Evidence & Service of Application

The landlord testified that on January 8, 2016 the landlord's application for dispute resolution and evidence (the "hearing package") was forwarded to the tenant via registered mail. The landlord explained that this address was obtained through the tenant's recent reapplication to BC Housing. This hearing package was returned to the landlord as unclaimed.

On July 13, 2016, the landlord contacted social services and obtained an alternate address for the tenant. This same date, the landlord mailed the hearing package via registered mail to this newly obtained address. This hearing package was also returned to the landlord as unclaimed.

Rule 3.14 of the RTB *Rules of Procedure* establishes that documentary evidence must be received by the respondent and the Residential Tenancy Branch (the "Branch") not less than 14 days before the hearing. If the evidence is received following this timeline, the evidence may or may not be considered depending on whether the applicant can

prove this evidence was new and relevant evidence that was unavailable at the time this application was made. The evidence package was received by the Branch ten days prior to the hearing and the landlord did not show this evidence was new and unavailable at the time the application was made. For these reasons, I have not relied on the landlords 31 page evidence package to form any part of my decision.

Section 89 of the *Act* establishes that documents served on a tenant via registered mail must be sent to the place where the tenant resides. The landlord has failed to provide sufficient evidence that establishes the addresses obtained by the landlord are that of the tenant's residence. For this reason, I find that the landlord has not served the application for dispute resolution to the tenant as required under the *Act* and dismiss the landlord's application.

Conclusion

I dismiss the landlord's entire application with leave to re-apply.

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: August 17, 2016

Residential Tenancy Branch