



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenants' security deposit in partial satisfaction of the monetary award, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 19 minutes. The landlord and her agent, PS (collectively "landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that her agent had authority to speak on her behalf at this hearing.

Preliminary Issue – Service of Landlord's Application

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package ("Application") by way of registered mail on January 25, 2016. The landlord provided a Canada Post tracking number verbally during the hearing. She testified that the Application was returned back to her. The landlord maintained that the tenant was served at an address verbally provided to her by a bailiff. She said that the bailiff informed her where he was taking all of the tenant's items.

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** ...;*
- (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 landlord failed to provide sufficient evidence that the tenant was served with the landlord's Application at an address at which she was residing or a forwarding address provided by her, in accordance with section 89(1) of the *Act*. The tenant did not attend this hearing. The Application package was returned back to the landlord. The landlord said she was verbally advised that the bailiff was taking the tenant's items to a certain location, but this does not prove that the tenant was residing there. The landlord did not provide documentary evidence of the tenant's address.

As the landlord failed to prove service in accordance with section 89(1) of the *Act*, I find that the tenant was not served with the landlord's Application. At the hearing, I advised the landlord that I was dismissing her Application with leave to reapply, except for the filing fee. I advised her that she could apply for an order for substituted service under section 71 of the *Act*, if required.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply. The remainder of the landlord'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: August 29, 2016

Residential Tenancy Branch