



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding IMMEUBLES NATALIE INC. D.B.A. SAND DOLLAR MANOR
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND MNSD MNDC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on May 11, 2016 (the "Application"). The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property;
- an order permitting the Landlord to retain the security deposit in partial satisfaction of the claim;
- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by S.B., who provided her solemn affirmation. The Tenant did not attend the hearing.

The Landlord testified the Notice of a Dispute Resolution Hearing and Application was served on the Tenant by Xpresspost on May 12, 2016. The Landlords served these documents at an address in Ontario that was provided by the Tenant on his initial application for tenancy. The Landlord provided Canada Post tracking information that confirmed a person other than the Tenant signed for the package.

According to S.B., the Landlord's subsequent evidence package, received at the Residential Tenancy Branch on October 5, 2016, was served on the Tenant by Xpresspost at the same address in Ontario. No documentary evidence was submitted with respect to service of the Landlord's second package.

Section 89(1) of the *Act* requires an application for dispute resolution to be served on a tenant in one of a prescribed number of ways. It states:

An application for dispute resolution...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)...

I find there was insufficient evidence before me to conclude the Tenant was served in accordance with section 89 of the *Act*. Furthermore, the Landlord did not apply for an order for substituted service pursuant 71 of the *Act*.

Both parties have the right to a fair hearing. The Tenant would not be aware of the hearing without having received the Notice of a Dispute Resolution Hearing and Application. I am not satisfied that the Tenant has been served with the Notice of a Dispute Resolution Hearing and Application in a manner provided for under the *Act*. Accordingly, I dismiss the Landlord's application with leave to reapply. This decision does not extend any applicable time limits under the *Act*.

Conclusion

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: October 19, 2016

Residential Tenancy Branch

