



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND MNR MNDC 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, damage and compensation for loss pursuant to section 67;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 1:50 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

Preliminary Issue: Service of Landlord's Application

The landlord testified that he served the application for dispute resolution package including the amended application by sending a copy for each tenant by registered mail on May 11, 2016 to an address provided to her by tenant G.M.'s father. The tenant provided a registered mail tracking numbers in support of service. I conducted a Canada Post online tracking search which confirms the package was delivered but the search did not provide the name of the person(s) accepting the registered package. The landlord testified that tenant G.M. confirmed receiving the evidence package via a facebook post but did not provide any supporting documents of such.

The landlord submits the tenants vacated the rental unit on March 12, 2016 and provided an alternate forwarding address which she believes to be a false address. She testified that tenant G.M.'s father confirmed the forwarding address provided by the tenants was false and he subsequently provided her with an alternate address.

Analysis – Service of Tenant's Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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;*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (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 document]...*

I find the landlord has provided insufficient evidence that the tenants have been served with the landlord's application for dispute resolution by registered mail to an address at which the tenants reside or in any other manner required by section 89(1) of the *Act*. I am unable to confirm that the tenants reside at the address to which the application package was served. This address was not provided to the landlord by the tenants as a forwarding address and the landlord has not established that the tenants in fact reside at this address.

Conclusion

I dismiss the landlord's application 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 04, 2016

Residential Tenancy Branch