



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HISAN INVEST COMPANY LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI FF

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on November 22, 2016. The Tenant filed disputing an additional rent increase and to recover the cost of the filing fee.

The applicant Tenant and her Assistant appeared at the teleconference hearing. However, no one appeared on behalf of the respondent Landlord.

Issue(s) to be Decided

Has the Tenant proven the Landlord was sufficiently served notice of this proceeding?

Background and Evidence

At the outset of this proceeding the Tenant testified she did not serve her Landlord with copies of her application for Dispute Resolution or the Notice of Hearing Documents. She stated she did not serve any evidence or documents to the Landlord and simply picked up her paperwork from the office and waited to call into the hearing on the scheduled date.

Analysis

Under section 52(3) of the *Act* a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making the application, or within a different period specified by the director.

Section 82(1) of the *Act* stipulates that 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 documents*].

The hearing package contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Hearing provided to the Tenants which states:

1. *Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions for evidence processing are included in this package. Deadlines are critical.*

In the absence of the respondent Landlord the burden of proof of service of the application for Dispute Resolution and hearing documents lies with the applicant Tenant. From her own submission the Tenant did not serve the Landlord with copies of her application for Dispute Resolution, the Notice of Hearing documents, or with copies of her evidence. As such, I find the Tenant has not met the burden to prove service in accordance with sections 52 and 82 of the *Act*.

To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. As I have found the service of documents not to have been effected in accordance with the *Act* I dismiss the Tenant's application, with leave to reapply.

The Tenant was not successful with her application; therefore, I declined to award recovery of the filing fee.

Conclusion

The Tenant was not able to prove service and her application was 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 *Manufactured Home Park Tenancy Act*.

Dated: January 05, 2017

Residential Tenancy Branch