



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STONECLIFF PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNDC, FF

Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order against the tenant for damage to the site; unpaid rent; and damage or loss under the Act, regulations or tenancy agreement. The landlord was represented at the hearing. An Advocate appeared on behalf of the tenant and stated that the tenant had verbally authorized him to appear at the hearing and make submissions that he had not been served with the hearing documents.

The landlord and the Advocate testified that the landlord had emailed hearing documents to the Advocate. The Advocate explained that he had been representing three other tenants of the manufactured home park but the landlord sent him hearing documents with respect to 22 tenants. The Advocate stated that he contacted the tenant at the telephone number indicated on the landlord's application to inform him about this hearing. In response the tenant requested that the Advocate appear at the hearing and advise me that he had not been served. The Advocate stated that he does not have an address for the tenant and only spoke to him over the telephone.

The landlord testified that she had sent the hearing package to the tenant via registered mail in July 2016 but that the registered mail was returned. The landlord orally provided a registered tracking number. A search of the registered mail tracking number reflects the following message from Canada Post, dated July 15, 2016: "Recipient not located at address provided. Item being returned to sender."

As to the address used to send the registered mail in July 2016, the landlord confirmed that the address appearing on the application was used to send the hearing package. The landlord explained that this address had been used successfully to mail documents to the tenant during the tenancy. However, the tenancy ended in August 2015 when the manufactured home park closed. The landlord confirmed that she is unaware of the tenant's current address of residence and stated that the tenant has not provided her with a forwarding address.

Under section 82(1) of the Act, a landlord's Application for Dispute Resolution for a monetary claim must be served upon the tenant in or person or by registered mail, unless the Director has authorized an alternative method of service. If registered mail is used, the address for service must be the tenant's address of residence at the time of mailing or the forwarding address provided by the tenant.

Having heard the landlord used a mailing address that was used during the tenancy but that the tenancy ended in August 2015, and Canada Post could not deliver the registered mail because the tenant could not be located at that address in July 2016, I find I am unsatisfied that the landlord used an address that was the tenant's address of residence at the time of mailing, a forwarding address, or an address at which the tenant could otherwise receive mail. Therefore, I find the landlord failed to demonstrate the tenant was sufficiently served with notification of this proceeding and I dismiss the 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 *Manufactured Home Park Tenancy Act*.

Dated: January 11, 2017

Residential Tenancy Branch