



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ORR DEVELOPMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent, the cost of cleaning and repairs and for the recovery of the filing fee. The landlord also applied to retain the security in partial satisfaction of her claim.

The landlord testified that the tenant moved out without providing the landlord with a forwarding address. The landlord mailed the notice of hearing package to the address provided by the tenant as his emergency contact on his application to rent the unit and in the tenancy agreement. The landlord followed up with phone calls and text messages to the tenant. The tenant did not respond to any of the landlord's attempts to contact him. The tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Was the tenant properly served with the notice of hearing and the landlord's application? If so is the landlord entitled to a monetary order?

Background and Evidence

The landlord testified that the tenancy started on June 15, 2015 and ended when the tenant moved out on July 15, 2016. The tenant did not provide the landlord with a forwarding address.

Accordingly the landlord mailed the hearing package to the address of the emergency contact of the tenant as provided by the tenant on his application to rent the unit.

Analysis

Section 89 (1) of the *Residential Tenancy Act* entitled “How to Give or Serve Documents” states:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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*].

In this case the tenant did not provide a forwarding address and the landlord mailed the hearing package to an address provided by the tenant on his application to rent the unit. Since, the service of this document was not carried out in compliance with Section 89 I find that the tenant was not properly served.

Conclusion

I am not satisfied that the tenant was served the notice of hearing and therefore, I dismiss this application with leave to re-apply.

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: January 31, 2017

Residential Tenancy Branch