



Dispute Resolution Services

Page: 1

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:

MNDC, NMD, MNR

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested compensation for unpaid rent, damage or loss under the Act and damage to the unit, site or property.

The landlord made the application on July 8, 2016. The tenant likely ceased residing on the manufactured home site in August 2015. All residents of this small community must receive mail at the postal office.

The landlord provided affirmed testimony that service was attempted via registered mail but the tenant did not retrieve the mail. The landlord said that if the tenant is living in the community the only place he could retrieve his mail is that the post office. The landlord could not establish whether the postal box used for service remains in use by the tenant.

Another party attended the hearing and said he was an advocate for the tenant. Residential Tenancy Branch policy suggests that an advocate is someone who attends a hearing to help a party to present their case. I accept that would occur in a case where service of notice of a hearing had been completed. This party was affirmed and then said he did not know the tenant. The status of this party was not clear as he does not know the tenant and was not acting as agent for the tenant. There was no dispute that in July 2016 this party had been given a number of applications for dispute resolution; naming multiple respondents on different files made by the landlord. This party said that somehow the respondent knew to contact him approximately one week ago and again the day prior to the hearing. This party said that the respondent had not been given the hearing documents and would not be attending the hearing. This party is not willing to assist in service of documents. As the landlord had no questions, this party was then asked to exit the hearing.

Section 89 of the Act sets out the method of service that must be utilized when making a monetary claim:

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].*

Therefore, as the landlord has confirmed that service has not been successful through any of the required methods I find that the application is dismissed with leave to reapply within the legislated time limit.

Conclusion

The application is dismissed within the legislated time limit.

This decision is final and binding and 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 19, 2017

Residential Tenancy Branch