



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of double the amount of the security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two landlords, male and female, did not attend this hearing, which lasted approximately 21 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant's Application

The tenant testified that the landlords were served with a copy of the tenant's application for dispute resolution hearing package on July 5, 2016, by way of registered mail. The tenant provided a Canada Post tracking number verbally during this hearing. He said that the package was returned to him.

The tenant claimed that his wife tracked down the phone number of the landlords on the internet and she phoned the female landlord, who provided her with the landlords' mailing address. The tenant stated that he sent the application to that address. He maintained that he indicated in his application that the landlords moved, their phone number was no longer in service and they did not provide a forwarding address before his wife found out the above address from the female landlord.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows:

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].*

I find that the tenant failed to provide sufficient evidence that the landlords were served with the tenant's application at an address at which they were residing or a forwarding address provided by them, in accordance with section 89(1) of the *Act*. The landlords did not attend this hearing. The registered mail package was returned to sender. The tenant's wife did not testify at this hearing to confirm that she received a forwarding address from the female landlord. The tenant did not provide documentary evidence of the landlords' address, internet search results or title searches of the landlords' residential or business addresses. Further, the tenant is required to serve each landlord with a separate copy of his application, and he only provided one tracking number for one registered mail package, rather than two.

As the tenant failed to prove service in accordance with section 89(1) of the *Act*, I find that the landlords were not served with the tenant's application. At the hearing, I advised the tenant that I was dismissing his application with leave to reapply, except for the filing fee. I notified the tenant that if he wished to pursue this matter further, he would have to file a new application and pay another filing fee. I notified the tenant to review section 71 of the *Act*, if he wishes to obtain an order from an Arbitrator for substituted service, after exhausting service under section 89 of the *Act*.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant's application is 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 *Residential Tenancy Act*.

Dated: January 04, 2017

Residential Tenancy Branch