



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND FF

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Landlord on July 25, 2016. The Landlord filed seeking a Monetary Order for damage to the unit site or property and to recover the cost of the filing fee.

The hearing was conducted via teleconference and was attended by the Landlord. No one appeared on behalf of the respondent Tenants.

Issue(s) to be Decided

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

Background and Evidence

At the outset of this proceeding the Landlord stated she served the Tenant with copies of her application for Dispute Resolution and Notice of Hearing documents via registered mail. I heard the Landlord state she submitted a photograph of proof the Tenant signed receipt of that package.

Upon review of the Landlord's photographic evidence there was a picture of an Xpress Post tracking website which indicated a D.L. signed for a package on May 25, 2016; two months prior to the Landlord's application for Dispute Resolution being filed on July 25, 2016. When the aforementioned dates were brought to the Landlord's attention she stated that she must have submitted a picture of the wrong document. She said she did not have the correct information with her during the hearing.

Analysis

Section 89(1) of the Act stipulates that 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 the absence of the respondent Tenant, the applicant Landlord bears the burden of proof that service of the hearing documents were completed in accordance with the *Act*. The Landlord was not able to provide the date and tracking information for service of her application for Dispute Resolution. Therefore, I find there was insufficient evidence to prove service was effected in accordance with 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 there was insufficient evidence to prove service of the application and hearing documents, I dismissed the Landlord's application, with leave to reapply. This dismissal does not extend any time limits set forth in the *Residential Tenancy Act*.

Conclusion

The Landlord's application was dismissed with leave to reapply.

This decision is final, legally 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 26, 2017

Residential Tenancy Branch