



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding I.B.J. HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPR, OPB, MND, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled by conference call to hear the Landlord's application filed on January 17, 2017 for an Order of Possession for cause, unpaid rent and a breach of the tenancy agreement.

The company Landlord also applied for a Monetary Order for: damage to the rental unit; unpaid rent; to keep the Tenant's security deposit; money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement; and to recover the filing fee from the Tenants.

Preliminary Matters

An agent for the company Landlord and the owner of the rental unit appeared for the hearing and provided affirmed testimony as well as evidence in advance of the hearing. The Landlord's agent confirmed that the tenancy had ended when the Tenants abandoned the rental unit on or about December 19, 2016. Therefore, I dismissed the Landlord's Application requesting an Order of Possession as this was no longer required.

There was no appearance for the Tenants during the hearing. Therefore, I turned my mind to the service of the Hearing Package by the Landlord to each of the Tenants. The Landlord's agent testified that two of the Tenants had not provided a forwarding address but as it was a short time after the rental unit had been abandoned, the Hearing Package had been sent to the rental unit address in the hope that it would be forwarded to the actual address the two Tenants were residing at.

The Landlord's agent testified that she sent the Hearing Package by express post and the Canada Post website shows that the documents were delivered. However, the website does not show who signed for the documents or who they had been delivered to.

The Landlord testified that the third Tenant had provided a forwarding address verbally to them at the end of the tenancy and this is where his documents were sent. However, these were returned back to the Landlord as unclaimed.

Section 89(1) (c) of the Act provides that a Hearing Package must be served by registered mail to the address at which the person resides. The purpose of serving documents under the Act is to notify the parties being served of matters relating to the Act, the tenancy agreement, and/or a dispute resolution proceeding. Another purpose of providing the documents is to allow the other party to prepare for the hearing and gather documents they may need to serve and submit as evidence in support of their position.

All parties named on an application for dispute resolution must receive notice of the proceedings. Where more than one party is named on an application, each party must be served separately. Failure to serve documents in a way recognized by the Act may result in the hearing being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.

Where a landlord is serving a tenant by Registered Mail, the address for service must be where the tenant resides at the time of mailing, or the forwarding address provided by the tenant. Registered Mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.

Based on the foregoing, I was not satisfied that the three Tenants named on the Landlord's application had been properly served with notice of this hearing and the claim being made against them. This is because the Landlord provided insufficient evidence that (a) the Tenants were residing at the rental unit at the end of January 2017 when the documents were mailed, and (b) the Canada Post website does not show the documents were signed for and received by each of the two Tenants it was sent to because service was affected by express post and not registered mail. I also make this finding based on the fact that the Tenants had abandoned the rental unit at the end of December 2016 and there is insufficient evidence before me that they were likely monitoring mail going to the rental unit or having it forwarded to them in January 2017.

With respect to the service of documents to the third Tenant who provided his address verbally, again I find that the address used by the Landlord to send documents is not corroborated or verifiable; in addition, there is insufficient evidence to show that this Tenant signed and received for documents sent to the address given verbally.

Based on the foregoing, I dismiss the Landlord's Application but provide leave to re-apply as I did not hear any evidence in this matter.

The participants remained on the line in the conference call to obtain further information about the service provisions of the Act and the time limits 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 Act.

Dated: February 24, 2017

Residential Tenancy Branch

