



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ADVANCE REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenant's security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

The landlord's agent attended the hearing; however the tenant did not attend. The landlord's agent testified that the tenant was served by sending the hearing documents by registered mail to her place of work as the tenant had not provided a forwarding address to the landlord.

Procedural Issues

I refer the parties to s. 89 of the *Act* which 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].

Accordingly I find the landlord did not serve the tenant in accordance to s. 89 of the *Act*.

Analysis

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 the landlord's agent declared that the tenant was served at her place of work and not to an address where the tenant resides or to an address provided by the tenant for service of documents; I am unable to determine that the tenant was served in accordance with the section 89 of the *Act*.

Conclusion

The landlord's application is therefore 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: February 06, 2017

Residential Tenancy Branch

