



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing dealt with a landlord's application for a Monetary Order for damage to the rental unit or property; damage or loss under the Act, regulations or tenancy agreement; and authorization to retain the tenant's security deposit and/or pet damage deposit. The landlord subsequently submitted an Amendment seeking to increase the monetary claim. The tenants did not appear at the hearing.

The landlord testified that he sent the original Application and some evidence to the tenants via registered mail on August 13, 2016 and the landlord provided a tracking number as proof of service. The landlord testified that he sent the Amendment and additional evidence to the tenants via registered mail on January 17, 2017 and the landlord provided a tracking number as proof of service. The packages were not returned to the landlord and the landlord acknowledged that he did not search the tracking numbers.

I noted that the landlord had named two tenants in filing his Application but had sent only one hearing package to both tenants. The landlord explained that the tenants are husband and wife.

I noted that the tracking number provided to me was consistent with Xpresspost. A search of the tracking numbers revealed that Canada Post had delivered the packages to a community mail box or parcel locker but that no signature was obtained.

I also noted that the monetary claim filed, and amended, was not accompanied by a Monetary Order worksheet or other detailed calculation. The landlord tried pointing to invoices and evidence to demonstrate the losses suffered; however, the amounts he pointed to did not add to the sum claimed and the sum claimed were not readily apparent.

Where a respondent does not appear at the hearing, the applicant bears the burden to establish that each of the respondents was served with the hearing documents in a manner that complies with the Act. The documentation requirements and service provisions are in keeping with the principles of natural justice which provide that every person charged or sued is entitled to notification of the charges or claims being made against them and the opportunity to respond or provide a defence.

Section 89 of the Act and Rule 3.1 of the Rules of Procedure provide that an Application for Dispute Resolution and other required hearing documents are to be served upon each respondent, regardless of their marital status or relationship. An Application for a Monetary Order must be served upon a respondent in person or by registered mail. Residential Tenancy Policy Guideline 12: *Service Provisions* outlines the service requirements for documents, including Applications for Dispute Resolution. As provided in the policy guideline, registered mail includes any service offered by Canada Post where a signature is required.

Rule 2.5 and 3.1 of the Rules of Procedure provide that an Application for Dispute Resolution is to be accompanied by a detailed calculation, which would include a Monetary Order worksheet as provided on the Residential Tenancy Branch website.

In this case, the landlord did not serve each respondent and the landlord did not use registered mail since a signature of the recipient was not required. Nor, did the landlord provide a detailed monetary calculation with the Application or Amendment, as required. Accordingly, I was unsatisfied that either of the tenants was served in a manner that complies with the Act and Rules of Procedure and to proceed to hear these claims in the absence of the tenants would likely violate the principles of natural justice and procedural fairness.

In light of the above, and considering the tenants did not appear or otherwise respond to the landlord's claims, I dismiss the landlord's claims against the tenants with leave to reapply. I noted that this does not extend any applicable time limits provided under the Act.

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 08, 2017

Residential Tenancy Branch