



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M'AKOLA HOUSING OF SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT, O

Introduction

This hearing dealt with an application from the tenant pursuant to the *Residential Tenancy Act* (the *Act*) for:

- more time to make an application to cancel the landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice");
- an order cancelling the landlord's One Month Notice; and
- an order for unspecified other.

The landlord did not attend the hearing. The tenant attended the hearing that was scheduled for 9:30 a.m. The tenant was given a full opportunity to be heard, to present sworn testimony and make submissions. The hearing lasted until 9:46 a.m.

Service of Tenant's Application

The tenant testified that the landlord was served the application for dispute resolution package by regular mail to the landlord's place of business. The tenant was not able to recall what date she sent the mailing.

Analysis – Service of Tenant's Application

Rule 3.1 of the *Residential Tenancy Branch Rules of Procedure* requires the applicant to serve a hearing package, which includes the application for dispute resolution, within 3 days of the hearing package being made available by the Residential Tenancy Branch.

Section 89(1) of the *Residential Tenancy Act* requires the application for dispute resolution to be served by 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 document]...

Rule 3.5 of the *Residential Tenancy Branch Rules of Procedure* (the "*Rules of Procedure*") establishes that the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the hearing package and all evidence as required by the *Act* and these *Rules of Procedure*.

Section 89 of the *Act* does not permit service of the tenant's dispute resolution package by regular mail. The tenant was unable to provide the date she sent the mailing. For these reasons, I find that the tenant has not provided sufficient evidence to satisfy me that the landlord was served in accordance with the *Act* and the *Rules of Procedure*. Therefore, I dismiss the tenant's application with leave to reapply due to insufficient service.

Conclusion

I dismiss the tenant's application with leave to reapply due to insufficient service.

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: March 06, 2017

Residential Tenancy Branch