



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1013247 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, OLC

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* ("Act"), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- authorization to obtain a return of double the amount of the security deposit, pursuant to section 38;
- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62.

The landlord did not attend this hearing, which lasted approximately 15 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant's Application

The tenant testified that the landlord was served with the tenant's application for dispute resolution hearing package on September 15, 2016 by way of mail. She provided a Canada Post tracking number verbally during the hearing, as no receipt was provided with her application. She said that she believes it was sent by registered mail but she could not recall whether she asked for a signature upon delivery. She claimed that she sent it to the landlords' address on the written tenancy agreement but she did not provide this agreement with her application.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

89 (1) An application for dispute resolution ..., 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].*

Residential Tenancy Policy Guideline 12 states the following, in part (emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord** at the time of service as well as a **copy of the printed tracking report**.*

During the hearing, when I checked the Canada Post website using the tracking number that the tenant provided, it indicated "signature option was not requested." Accordingly, I find that the tenant did not serve the landlords with her application because it was sent by mail but no signature option was requested. Therefore, delivery to a named person, could not be confirmed as per Residential Tenancy Policy Guideline 12.

As the tenant failed to prove service in accordance with section 89(1) of the *Act*, I find that the landlords were not served with the tenant's application by way of registered mail. At the hearing, I advised the tenant that I was dismissing her application with leave to reapply. I notified her that she would be required to file a new application and pay a new filing fee, if she wished to pursue this matter further. I cautioned her that she would have to prove service at the next hearing, including evidence of the landlords' mailing address.

Conclusion

The tenant's entire application is 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: March 13, 2017

Residential Tenancy Branch