



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1065872 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, MNDC, FF

Introduction

This hearing was convened by conference call in response to the Landlord's Application for Dispute Resolution (the "Application") for a Monetary Order for: unpaid rent; to keep the Tenant's security deposit; for 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 Tenant.

An agent for the company Landlord, who was also the property manager of the rental property, appeared for the hearing and provided affirmed testimony. There was no appearance by the Tenant during the 15 minute hearing. Therefore, I turned my mind to the service of documents for this hearing.

The Landlord's agent testified that this tenancy ended when the Tenant vacated the rental unit at the end of September 2016. The Landlord's agent testified that he sent a copy of the Application and the Hearing Package to the Tenant at the rental unit address where he was renting on September 29, 2016 by registered mail.

However, the Landlord's agent explained that he had lost the Canada Post tracking number and despite efforts to try and retrieve this from Canada Post he was unable to obtain this information. Therefore, the Landlord's agent was unable to confirm whether the Tenant had actually received and signed for the documents but did provide a signed affidavit of his efforts to retrieve the Canada Post evidence.

I expressed my concern to the Landlord about serving the documents back to the rental unit where the Tenant had once resided and where he no longer did. The Landlord confirmed that the Tenant had not provided a forwarding address but testified that the Tenant did come back and forth to the rental unit after the tenancy had ended and would have likely received a notice card from Canada Post to pick up the mail.

When a party makes an Application they must serve the respondent with a copy of the Application and put the party on notice of the hearing and the claim being made against them pursuant to Section 89(1) of the Act.

In this case, I find the Landlord served the Tenant with documents for this hearing to the rental unit address at the point the Tenant had vacated the rental unit. Therefore, I am not satisfied that the Tenant was served to an address where he would have likely been notified of the documents for this hearing.

In addition, I accept that the Landlord attempted to locate the Canada Post tracking number for this hearing, but without any Canada Post tracking evidence to show the route the documents took or whether the Tenant signed and received them, I am not convinced that the Tenant has been put on notice of this hearing and therefore to proceed in his absence would be prejudicial to the Tenant.

Therefore, I am unable to hear the Landlord's Application. However, I provide the Landlord with leave to re-apply if service on the Tenant can be proved for a subsequent application.

Conclusion

In the absence of the Tenant appearing for the hearing, the Landlord has failed to provide sufficient evidence to show the Tenant was served with the required documents for this hearing. As a result, the Landlord's Application is dismissed with leave 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: March 29, 2017

Residential Tenancy Branch