



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlords' 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 tenants' security deposit; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlords to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on November 08, 2016. Copies of the envelopes containing the hearing documents for both tenants were provided in documentary evidence. These show that the registered mail was refused. These were then returned to the landlords.

The landlords testified that they were not provided a forwarding address in writing for the tenants. At first the tenants provided a false address but after the landlords checked that it was incomplete. The landlords received a text message from the one of the tenants saying they could sue the tenants for two weeks rent and serve the tenants at her ex-husband's address which the landlords explained they had on file on the tenants' original application. The landlords agreed they had no knowledge if the tenants were residing at that address. The hearing documents were sent to the tenant's ex-husband's address.

Analysis

I refer the parties to s. 89 of the *Act* which provides for service of hearing documents and 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].*

I have insufficient evidence to show that the tenants were served in accordance with s. 89 of the *Act* and that the address the hearing documents were sent to was an address provided by the tenants as their forwarding address or is the address at which the tenants reside.

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. In the absence of proof that the tenants were served with the hearing documents in accordance with the section 89 of the *Act*, I dismiss the landlords' application with leave to reapply.

Conclusion

The landlords' 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: May 04, 2017

Residential Tenancy Branch