



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD, MNDC, OPR, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows.

1. A Monetary Order for unpaid rent / loss - Section 67
2. An Order to keep the security deposit – Section 38
3. An Order of Possession for unpaid rent – Section 55
4. An Order to recover the filing fee for this application - Section 72.

The landlord attended the conference call hearing but the tenant did not. The landlord testified that they sent the tenant the Notice of Hearing package and evidence by registered mail on April 07, 2017 to the dispute address where the landlord testified the tenant no longer resided, having moved out a week earlier and without access to the unit. A forwarding address was not provided by the tenant however the landlord claims they are in possession of an e-mail address.

Section 89 of the Act states as follows (**emphasis mine**)

Special rules for certain documents

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 am not satisfied the tenant was served with notice of this hearing pursuant to Section 89 of the Residential Tenancy Act, or that the tenant is aware of this proceeding. Therefore, **I dismiss** the landlord's application, *with leave to reapply*. None of the potential merits of this application were heard.

Conclusion

The landlord's application **is dismissed**, *with leave to reapply*.

This Decision is final and binding.

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 09, 2017

Residential Tenancy Branch