



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was scheduled to hear the landlord's claims for compensation against the tenant's security deposit by telephone conference call at 1:30 a.m. on this date. At the commencement of the hearing, neither party was present. The landlord connected to the telephone call at 1:39 p.m.

I proceeded to ask the landlord whether he had anybody with him. He said "no". Shortly afterward he began talking to somebody and I confirmed with him that his wife, the co-landlord, was with him. When I asked why he had told me that he was not with anybody he stated that he thought I meant legally; however, the landlord acknowledged that he was legally with his wife. Accordingly, I have recorded both named landlords as being in attendance at the hearing, albeit late.

I informed the landlord that the tenant had not called into the hearing and I asked how the tenant was served with the hearing package. The landlord stated he did not know as it was last year. I informed the landlord that I could not proceed with the hearing if I was not satisfied the tenant was notified of this proceeding. The landlord stated he did not serve the tenant as he had been in the hospital at the time and he asked his wife. The landlord's wife stated that BC Service served the tenant. I informed the landlord that BC Service does not serve respondents and that an applicant is required to do so. The landlord asked his wife again, telling her that BC Service does not serve the documents upon the tenant and the landlord's wife indicated again that BC Service did it. Then the landlord stated that his wife was confused.

The landlord proceeded to state that the tenant did receive the hearing documents and when I asked how he stated again that he did not know.

I informed the landlord that I was prepared to dismiss this application with leave to reapply. The landlord then requested the application be cancelled.

Where a respondent is not at the hearing, the applicant bears the burden to prove the respondent was served with notification of the hearing and the claims against them in one of the ways permitted under section 89 of the Act. Since this application pertains to a monetary claim, section 89(1) of the Act provides that the permissible methods of service are: to serve the tenant in person, or to send registered mail to the tenant at her address of residence or forwarding address, or as ordered by the Director.

The landlords failed to establish that the tenant was served with notification of this proceeding in a manner that complies with section 89(1) of the Act. Therefore, I dismiss this application with leave to reapply. I note this does not extend any applicable deadlines under the Act.

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 03, 2017

Residential Tenancy Branch