



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KARIMI HOLDINGS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MND, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for damage, for a monetary Order for unpaid rent, to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

Background and Evidence

The Agent for the Landlord stated that:

- the tenancy began on December 01, 2014;
- the rental unit was vacated on October 29, 2016;
- the Tenant did not provide a forwarding address at the end of the tenancy;
- on December 12, 2016 she sent the Application for Dispute Resolution and Notice of Hearing to the rental unit, via registered mail;
- on December 12, 2016 she sent the Application for Dispute Resolution and Notice of Hearing to the service address on the Application, via registered mail;
- the Tenant's father signed for the registered mail that was sent to the service address on December 12, 2015;
- the service address on the Application is the Tenant's father's address;
- the service address on the Application was provided to the Landlord in his Application for Tenancy as the address of his emergency contact;
- on the Application for Tenancy the Tenant provided the service address on the Application for Dispute Resolution as his current address; and
- the service address on the Application was provided to her by the Tenant's sister, who also lives in the residential complex.

Analysis

The purpose of serving the Application for Dispute Resolution and the Notice of Hearing to tenants is to notify them that a dispute resolution proceeding has been initiated and to give them the opportunity to respond to the claims being made by the landlord. When a landlord files an Application for Dispute Resolution in which the landlord has applied for a monetary Order, the landlord has the burden of proving that the tenant was served with the Application for Dispute Resolution in compliance with section 89(1) of the *Residential Tenancy Act (Act)*.

Section 89(1) of the *Act* stipulates, in part, that a landlord must serve a tenant with an Application for Dispute Resolution in one of the following ways:

- (a) by leaving a copy with the person;
- (c) by sending a copy by registered mail to the address at which the person resides;
- (d) by sending a copy by registered mail to a forwarding address provided by the tenant;
- or
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

The Landlord submitted no evidence to show that the Tenant was personally served with the Application for Dispute Resolution or Notice of Hearing and I therefore cannot conclude that he was served in accordance with section 89(1)(a) of the *Act*.

The Landlord submitted no evidence to show that the Tenant was living at the rental unit or the service address on the Application for Dispute Resolution when the Application was mailed to those addresses on December 12, 2016. I therefore cannot conclude that he was served in accordance with section 89(1)(c) of the *Act*.

The Landlord submitted no evidence to show that the Tenant provide the Landlord with the service address on the Application for Dispute Resolution as a forwarding address. I therefore cannot conclude that he was served in accordance with section 89(1)(d) of the *Act*.

In determining whether the Application for Dispute Resolution was served to the Tenant in accordance with section 89(d) of the *Act*, I placed no weight on the Agent for the Landlord's testimony that the service address on the Application was provided to her by the Tenant's sister, who also lives at the residential complex. Section 89(1)(d) of the *Act* requires that the forwarding address be provided by the Tenant, not a relative of the Tenant.

In determining whether the Application for Dispute Resolution was served to the Tenant in accordance with sections 89(c) or 89(1)(d) of the *Act*, I placed no weight on the Agent for the Landlord's testimony that the service address was provided by the Tenant in his

Application for Tenancy as the address of his emergency contact and as his address prior to moving to the rental unit. I find that none of this information establishes that the Tenant moved back to that address at the end of the tenancy or that he authorized the Landlord to use that address as a forwarding address at the end of the tenancy.

There is no evidence that the director authorized the Landlord to serve the Application for Dispute Resolution to the Tenant in an alternate manner, and I therefore cannot conclude that he was served in accordance with section 89(1)(e) of the *Act*.

The Landlord submitted no evidence to cause me to conclude that the Tenant received the Application for Dispute Resolution and I therefore cannot conclude that the Application has been sufficiently served pursuant to sections 71(2)(b) or 71(2)(c) of the *Act*. Although I accept that the Tenant's father signed for the registered mail that was sent to the service address on December 12, 2016, no evidence was submitted that would cause me to conclude that the Tenant's father provided those documents to the Tenant.

As the Landlord has submitted insufficient evidence to establish that the Tenant was served with the Application for Dispute Resolution in accordance with section 89(1) of the *Act*, I am unable to proceed with the hearing in the absence of the Tenant. The Application is dismissed, with leave to reapply.

Conclusion

The Application for Dispute Resolution is dismissed, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution.

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: June 06, 2017

Residential Tenancy Branch