



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was scheduled to hear the landlord's application for a Monetary Order to recover bailiff fees from the tenants. The tenants did not appear at the hearing. The landlord testified that he placed the hearing documents, including evidence, in the mail slot of the tenants' address of residence on January 25, 2017.

Where a respondent does not appear at the hearing, the applicant bears the burden to prove the hearing documents were served upon each respondent in a manner that complies with the Act.

I found the landlord's proof of service to be inadequate in a number of ways. Firstly, the hearing package was not generated until January 30, 2017 so it would have been impossible for the landlord to serve the tenants with the hearing package on January 25, 2017 as he stated. Secondly, the landlord claims that a witness was present for the service but the landlord did not submit any signed witness statement even though he claims he had one. Thirdly, the landlord submitted that he obtained the tenant's address of residence from a text message sent to him by the tenant but the landlord did not submit a copy of the text message as proof of service. Fourthly, an Application for Dispute Resolution for a Monetary Order must be served in a manner permitted under section 89(1) of the Act. Section 89(1) of the Act provides that an Application for Dispute Resolution must be served upon each respondent in person or by registered mail. Placing the Application for Dispute Resolution in the mail slot of the respondent's home is not a permissible method of service under section 89(1) unless an applicant has received authorization to do so from the Director by way of a Substituted Service Order, which the landlord did not obtain in this case.

In light of the above, I declined to further consider the landlord's claim and I dismissed it 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: July 11, 2017

Residential Tenancy Branch