



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FF MNR MND

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for:

- a monetary order for unpaid rent and utilities pursuant to section 67;
- a monetary order for damage to the unit, site, or property pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 2:23 p.m. in order to enable him to connect with this teleconference hearing scheduled for 2:00 p.m. The landlord's agent, JH ('landlord'), testified on behalf of the landlord in this hearing and was given full authority by the landlord to do so. The landlord's agent was given a full opportunity to be heard, to present evidence and to make submissions.

Preliminary Issue - Service of Application for Dispute Resolution

The landlord's agent testified during the hearing that the tenant was served with the application for dispute resolution on April 4, 2017, by way of registered mail.

The landlord indicated in the hearing that the tenant did not provide a forwarding address to the landlord upon move-out, and that a forwarding address was obtained from the realtor who dealt with the tenant. The landlord's agent was unable to verify how this address was obtained, and whether the tenant resides at this address. The tenant did not attend the hearing, nor was the package picked up at that address. The realtor who obtained this address did not testify in this hearing to confirm how this forwarding address was obtained, and whether this is indeed the tenant's forwarding address.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a Monetary Order.

89(1) An application for dispute resolution,...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;...*

At the hearing, I advised the landlord's agent of my finding that I was not satisfied that the tenant was served in a manner required by section 89(1) of the *Act*. For this reason, I cannot consider the landlord's application for a Monetary Order. I am not satisfied that the tenant was properly served with any portion of the landlord's application for dispute resolution.

As the landlord's application for a Monetary Order has not been served to the tenant in a method required under section 89(1) of the *Act*, I dismiss the landlord's application for a monetary Order with leave to reapply.

Conclusion

I dismiss the landlord's entire application 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: August 31, 2017

Residential Tenancy Branch