



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC O

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67. Specifically, the tenant sought compensation as a result of the landlord's failure to comply with the terms of the 2 Month Notice to End Tenancy for Landlord's Use issued by the landlord.

The landlord did not attend this hearing, although I waited until 9:16 a.m. in order to enable the landlord to join this teleconference hearing scheduled for 9:00 a.m. The tenant attended the hearing and was given a full opportunity to be heard.

Preliminary Issue: Service of Notice of Hearing to Respondent

The tenant testified that she served the landlord with her Application for Dispute Resolution ("ADR") including the Notice of Hearing by registered mail. The tenant did not submit a copy of the registered mail receipt for this hearing nor could she provide any detailed information with respect to service at this time. While the teleconference remained open for 16 minutes, the tenant was unable to provide a Canada Post registered mail tracking number or the date that the ADR was mailed to the landlord. Further, the tenant provided insufficient information with respect to the service of her amendment to her application. The landlord did not attend this hearing.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process to notify the respondent of the application and the hearing information related to the application. Service of documents is restricted by timelines and methods of service to underscore its importance. It is essential that a party be able to **prove** that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing.

Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondent does not appear at a Dispute Resolution hearing, the applicant must be prepared to ***prove service under oath***. The tenant provided some testimony regarding service to the landlord however I find that the testimony lacked sufficient detail, including the dates of service and the confirmation of service to the landlord. While the tenant was provided opportunities to provide service details over the course of the 16 minute hearing, she was unable to do so. Therefore, I find that the tenant did not provide sufficient evidence to prove that the landlord was served with the documents to provide notification of this hearing.

Prior to considering the details of the applicant's claim, I must be satisfied that the tenants/applicant sufficiently served the other party (the landlord), allowing that party an opportunity to know the case against them and attend the dispute resolution hearing. Based on the lack of detail and evidence submitted by the tenant to prove that the landlord was served with the Notice of Hearing, I find that the tenant has not sufficiently proven that the landlord was in fact served in accordance with the *Act* allowing the landlord to be aware of the details of the tenant's application at this dispute resolution hearing. Therefore, I dismiss the tenant's application with leave to reapply.

Conclusion

I dismiss the tenant's 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 23, 2017

Residential Tenancy Branch