



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear an application regarding the above-noted tenancy. The landlords applied for:

- a monetary order for unpaid rent, for damage to the rental unit, and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant’s security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 9 minutes. Two of four landlords (“female landlord” and “male landlord”) attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The female landlord confirmed that the other two landlords who did not attend this hearing were her parents and she had authority to speak on their behalf at this hearing.

Preliminary Issue – Service of Landlords’ Application

The female landlord testified that the tenant was served with the landlords’ application for dispute resolution hearing package on March 29, 2017 by way of mail. She provided a Canada Post tracking number verbally during the hearing, as no receipt was provided with the application. She said that sent it by registered mail and she asked for a signature upon delivery. She claimed that she sent it to an address provided by the tenants at three previous Residential Tenancy Branch (“RTB”) hearings but did not provide copies of the three previous decisions or documentary evidence of the tenant’s address.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

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;***
- (e) *as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

Residential Tenancy Policy Guideline 12 states the following, in part (emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord** at the time of service as well as a **copy of the printed tracking report**.*

During the hearing, when I checked the Canada Post website using the tracking number that the female landlord provided, it indicated "signature option was not requested." Accordingly, I find that the landlords did not serve the tenant with their application because it was sent by mail but no signature option was requested. Therefore, delivery to a named person could not be confirmed as per Residential Tenancy Policy Guideline 12.

As the landlords failed to prove service in accordance with section 89(1) of the *Act*, I find that the tenant was not served with the landlords' application by way of registered mail. At the hearing, I advised the two landlords that I was dismissing the landlords' application with leave to reapply, except for the filing fee. I notified them that the landlords would be required to file a new application and pay a new filing fee, if they wished to pursue this matter further. I cautioned them that the landlords would have to prove service at the next hearing, including evidence of the tenant's mailing address and the fact that it is a residential or a forwarding address.

Conclusion

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlords' application is dismissed 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 29, 2017

Residential Tenancy Branch