



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: RPP

Introduction

Only the tenant/applicant attended and gave sworn testimony. The tenant said he served the landlord with his Application for Dispute Resolution by regular mail after finding the address through Land Titles. When I pointed out that section 89 of the Act required registered mail or personal service, he said he had tried to find the address on foot but was unable to find it. I find the Application was not legally served for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) That the landlord return personal property pursuant to section 65(1)(e)

Issue(s) to be Decided:

Has there been legal service of the Application? Has the tenant proved on the balance of probabilities that the landlord has denied access to their personal property and will not return it contrary to section 65(1)(e) of the Act?

Background and Evidence

Only the tenant attended the hearing and was given limited opportunity to be heard, to provide evidence and to make submissions. He explained his situation. He has been excluded from the building where his unit was located. It is boarded up and will be demolished. He said he retrieved some belongings in April 2017 accompanied by the police and the owner but he has many possessions still in the unit. The landlord charged him with arson and he is homeless now and in hospital.

Analysis:

As explained to the tenant in the hearing, section 89 of the Act requires service of the Application/Notice of Hearing by either registered mail or in person. I find the landlord was not legally served with the Notice of Hearing and the regular mail may not have reached him as the tenant could not find the address to which he sent the letter. According to the Principles of Natural Justice, I find a party must have Notice of a

Hearing and have the opportunity to respond. Accordingly, I dismiss the Application of the tenant.

The tenant asked me for suggestions for how he might try to retrieve his property from this building which is already boarded up and due to be demolished. I suggested he might contact the City, the Police Officer who accompanied him in April 2017, the owner and try to obtain some assistance through legal aid.

Conclusion:

I dismiss the Application of the tenant and give him leave to reapply if he finds he is able to legally serve the landlord.

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: September 07, 2017

Residential Tenancy Branch