



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BLUE GRIZZLY INVESTMENTS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC MNSD MNDC

Introduction

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

- authorization to obtain a return of the security deposit, pursuant to section 38 of the *Act*;
- a monetary award for damage or loss under the *Act* pursuant to section 67 of the *Act*; and
- a cancellation of the landlord's 2 Month Notice to End tenancy, pursuant to section 49 of the *Act*.

Both the landlord's agent, A.J.G. (the "landlord") and tenant appeared at the hearing. Following opening remarks, the landlord explained that he was given the information to call in to the hearing after speaking to an Information Officer about a separate matter. The landlord said he had no details of the hearing, no evidence and did not understand the purpose of the hearing.

The tenant stated that she sent the landlord a copy of his Application for Dispute Resolution via Canada Post Registered Mail but could not provide a copy of the Canada Post Receipt or tracking number. The tenant submitted a Canada Post Registered Mail receipt as part of his evidentiary package which shows a document was sent to the landlord on June 21, 2017; however, the matter before me at the hearing was applied for on July 25, 2017, rendering it impossible that the landlord received notice of the hearing in June 2017. The tenant acknowledged that he may have failed to serve the landlord with the application which he hoped to have heard today, and may have mailed a separate document which was unrelated to today's proceedings.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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;*

While the tenant purportedly served the landlord in a manner required by section 89(1) of the *Act*, I find no evidence was presented at the hearing or as part the tenant's application for dispute resolution which would confirm the tenant's testimony.

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: January 31, 2018

Residential Tenancy Branch