



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP, PSF, LRE, OPT, LAT, RR

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to make repairs to the rental unit, pursuant to section 33;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65;
- an order to suspend or set conditions on the landlord’s right to enter the rental unit, pursuant to section 70;
- an Order of Possession of the rental unit, pursuant to section 54;
- authorization to change the locks to the rental unit, pursuant to section 70;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

The landlord did not attend this hearing, which lasted approximately 29 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenant’s Application

When initially asked about service of his application, the tenant was not prepared to provide evidence. The tenant initially testified that the landlord was served in person and then claimed it was by registered mail.

The tenant stated that the landlord was served on January 6, 2018, then claimed it was January 12 and then claimed it was January 8. When I asked how he served the application documents prior to his application being filed on January 12, 2018, he claimed that he served some documents early.

The tenant provided three Canada Post tracking numbers for the January 8 and 12 mailings. He claimed that he mailed separate packages to the landlord because the landlord was fraudulently using two names. He said that there were not two landlords as originally indicated on his application. He stated that the Residential Tenancy Branch ("RTB") advised him to send separate packages to the same person.

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

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:

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.

The tenant provided confusing evidence regarding service of this application, changing his testimony from personal service to registered mail on three different dates, two of which were prior to the tenant's application being filed. The tenant also named two different landlords when he intended to name one, with alternate names being used. The landlord did not appear at this hearing to confirm that he received the application.

Accordingly, I find that the tenant failed to prove service in accordance with section 89(1) of the *Act* and the landlord was not served with the tenant's application.

At the hearing, I informed the tenant that I was dismissing his application with leave to reapply. I notified him that he would be required to file a new application and pay a new filing fee, if he wished to pursue this matter further. I cautioned him that he would have to provide specific evidence regarding service of documents at the next hearing. I informed the tenant that he could contact the RTB information officers if required and obtain an advocate to assist him with the process.

Conclusion

The tenant's entire 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: February 09, 2018

Residential Tenancy Branch