



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PW COMOX DEVELOPMENT LP AND PW COMOX HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This teleconference 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;
- authorization to obtain a return of all or a portion of the security deposit and pet damage deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing which lasted approximately 15 minutes. The tenant attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that he served the landlord with his application for dispute resolution dated August 29, 2017 and evidence by registered mail. The tenant did not submit a copy of the Canada Post tracking number into written evidence and was unable to provide a tracking number orally at the hearing. The tenant testified that he received a text message from the landlord's agent in response to the application so he believes that it was received.

Analysis – Service of Tenant's Application

Section 89(1) 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;*
- (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 document]...*

The tenant was unable to provide a Canada Post Registered Mail receipt or tracking numbers for the applications. While the tenant testified that he received a text message from the landlord in response to the application I do not find that to be sufficient evidence to find that the application was served in accordance with the Act. Based on the minimal evidence, I find that I am not satisfied that the tenant served the landlord properly with the application for dispute resolution in accordance with the Act. Consequently, I dismiss the tenant's application with leave to reapply.

Conclusion

The tenant's 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: March 8, 2018

Residential Tenancy Branch