



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, RPP, MNDCT

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. A monetary order in the sum of \$1000 including an order for double the security deposit.
- b. An order that the landlord return his cell phone.

A hearing was conducted by conference call in the present of the applicant but in the absence of the respondent. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The applicant testified he served the respondent with the Application for Dispute Resolution/Notice of hearing in early February by mailing, by registered mail to where the respondent resided. He testified he delayed in serving the applicant (the Act requires service in 3 days after receipt of the Application) because he did not have enough money to pay for the registered mail and he was not able to find the applicant at home to serve him personally.

The Applicant testified he was not at home at the time of the hearing, he did not have the registered mail receipt with him and he could not give the tracking number. He further testified he submitted evidence of the registered mail receipt on-line. I did not have access to the internet at the time of the hearing and could not confirm this. I advised the Tenant that I was prepared to continue with the hearing but my decision was subject to the production of the registered mail receipt that he testified was submitted on-line.

Policy Guideline #12 includes the following:

15. PROOF OF SERVICE

Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package.

Proof of service of other documents may be submitted in support of claims for dispute resolution in accordance with the Rules of Procedure.

Where proof of service is required, the person who actually served the documents must either:

- be available as a witness in the hearing to prove service, or
- provide a signed statement with the details of how the documents were served.

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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.

A search of the documents submitted on-line does not show a registered mail receipt or that the tenant submitted any documents in February. The only documents submitted by the parties were submitted by the tenant on January 2, 2018.

As the tenant failed to produce a copy of the registered mail receipt and failed to provide evidence of a tracking number I determined the tenant failed to prove that he has served the respondent as required by the Residential Tenancy Act. I ordered that the application be dismissed with liberty to re-apply.

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 01, 2018

Residential Tenancy Branch