



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF

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:

- authorization to obtain a return of the security deposit, pursuant to section 38;
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 12 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

The tenant testified that the landlord was served with the tenant's application for dispute resolution hearing package on January 24, 2018, by way of mail. She provided a Canada Post receipt and tracking number with her application.

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

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 (emphasis added):

*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**.*

During the hearing, when I checked the Canada Post website using the tracking number that the tenant provided, it indicated "signature option was not requested." The tenant checked the website and tracking number during the hearing and confirmed this information. Accordingly, I find that the tenant did not serve the landlord with her application because it was sent by mail but no signature option was requested. Therefore, delivery to a named person, could not be confirmed as per Residential Tenancy Policy Guideline 12.

As the tenant failed to prove service in accordance with section 89(1) of the *Act*, I find that the landlord was not served with the tenant's application by way of registered mail. At the hearing, I advised the tenant that I was dismissing her application with leave to reapply, except for the filing fee. I notified her that she would be required to file a new application and pay a new filing fee, if she wished to pursue this matter further. I cautioned her that she would have to prove service at the next hearing.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply. The remainder of 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 20, 2018

Residential Tenancy Branch