



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SANDY POINT DEVELOPMENT CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDL, MNRL, FFL

Introduction

This hearing was convened in response to an application by the landlord filed October 12, 2017 pursuant to the *Residential Tenancy Act* (the Act) for a Monetary Order.

Preliminary issue – Service of Documents

The landlord attended the conference call hearing. The tenant did not. The landlord in attendance stated they are confident that the tenant was served with the Notice of Hearing of this matter by someone other than them on April 30, 2018. The landlord did not provide evidence or proof of the service, however stated they also personally provided the hearing Notice information to the tenant by text message in the latter part of the week before this hearing upon themselves receiving the Notice of Hearing information the week of May 07, 2018. The landlord did not present evidence that they employed other means to serve the tenant as prescribed by the Act. The landlord stated the tenant is difficult to deal with and queried why they, as applicant, were required to serve the respondent versus the Branch notifying the tenant in this matter. They further alleged the Branch erred by not providing the hearing information to them until recently.

Section 89 of the Act states as follows

Special rules for certain documents

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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*].

Section 89 of the Act is deliberately designed to give weight and credibility to the presumption of service if a party is served in accordance with the ways listed. I find the landlord did not provide sufficient evidence of service notifying the tenant of today's hearing; and, I am not convinced by the ambiguity of the landlord's statements that the tenant was served pursuant to Section 89 of the Residential Tenancy Act. I am not satisfied the tenant has knowledge of today's hearing. Therefore, **I dismiss** the landlord's application, but I do so, *with leave to reapply*.

None of the potential merits of this application were heard.

Conclusion

The landlord's application **is dismissed, with leave to reapply**.

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: [**www.gov.bc.ca/landlordtenant**](http://www.gov.bc.ca/landlordtenant).

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: May 15, 2018

Residential Tenancy Branch