



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two landlords and "tenant BG" did not attend this hearing, which lasted approximately 10 minutes. Tenant KG ("tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that she had permission to speak on behalf of tenant BG, as an agent at this hearing.

Preliminary Issue – Service of the Tenants' Application

The tenant testified that the landlords were served with the tenants' application for dispute resolution hearing package by way of registered mail. She claimed that she did not know the date of service or the Canada Post tracking number for the registered mail.

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 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].*

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 did not provide a date for service. The tenants did not provide a copy of the Canada Post receipt, tracking number or tracking report for the registered mail. The landlords did not attend this hearing to confirm receipt of the tenants' application.

Accordingly, I find that the tenants failed to prove service in accordance with section 89(1) of the *Act* and the landlords were not served with the tenants' application.

At the hearing, I informed the tenant that I was dismissing the tenants' application with leave to reapply, except for the filing fee.

I notified the tenant that the tenants would be required to file a new application and pay a new filing fee, if they wished to pursue their monetary claim for damage and loss. I cautioned her that the tenants would have to prove service at the next hearing, including specific evidence regarding the date and method of service as well as documentary evidence. I cautioned the tenant that a limitation date may be approaching in August 2018, as her tenancy ended in August 2016. The tenant confirmed her understanding, indicating that she would be refiling immediately.

For the tenants' information, section 60(1) of the *Act* states the following:

Latest time application for dispute resolution can be made

60 (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

Conclusion

The tenants' application to recover the \$100.00 application filing fee is dismissed without leave to reapply.

The remainder of the tenants' 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: May 09, 2018

Residential Tenancy Branch