



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT FFT

Introduction

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

- a monetary order for compensation for money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

While the tenant attended the hearing by way of conference call, the landlord did not. I waited until 2:10 p.m. to enable the landlord to participate in this scheduled hearing for 2:00 p.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of the Application for Dispute Resolution

The tenant testified during the hearing that he had moved out on August 1, 2017 after being served with a 2 Month Notice to End Tenancy for Landlord's Use on May 18, 2017 as the new owner wanted to move in. The tenant was not provided the name or contact information of the new owner, but on September 23, 2017 he discovered that the home was advertised for rent. The tenant testified that he recognized the home from the photo used in the advertisement.

The tenant then performed a title search of the property to obtain the name of the new owner. The tenant submitted a copy of the title search in his evidence, dated September 25, 2017. The tenant attempted to serve the owner listed on the title search at the address of the rental home by way of registered mail. The tenant provided a tracking number in the hearing for a package that was sent on October 4, 2017. The package was returned to the tenant on October 25, 2017.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary Order.

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;...*

As the new owner did not attend the hearing to confirm that he is in fact the new owner of the property, and as the package was returned to the tenant, I am not satisfied that the tenant has provided sufficient evidence to confirm the identity of the new landlord or owner. I also find that the tenant has failed to provide sufficient evidence to support that the new owner or landlord was served in a manner required by section 89(1) of the *Act*. I therefore cannot consider the tenant's application for a Monetary Order. I am not satisfied that the new landlord was properly served with any portion of the tenant's application for dispute resolution.

As I am not satisfied that the tenant's application has not been served to the landlord in a method required under section 89(1) of the *Act*, I dismiss the tenant's application for monetary compensation with leave to reapply.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As the tenant was not successful in their application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application. The tenant must bear the cost of this filing fee.

Conclusion

I dismiss the tenant's application for monetary compensation with leave to reapply.

The tenant's application to recover the filing is dismissed without 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: June 1, 2018

Residential Tenancy Branch