



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD RPP

Introduction

This hearing was scheduled to address the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for a monetary order to include the unreturned portion of her security deposit pursuant to section 67 as well as an order requiring the landlord to return the tenant's personal property pursuant to section 65 of the Act.

The landlord/respondent did not attend this hearing. I waited until 1:50 p.m. in order to enable the landlord to attend and participate in this hearing scheduled for 1:30 p.m. The tenant attended to testify with respect to her application. I confirmed from the teleconference system that the tenant/applicant and I were the only people who called into this teleconference.

Preliminary Issue of Service

The tenant testified that she sent the landlord her Application for Dispute Resolution (as well as her supporting documentary evidence and Notice of Hearing) by registered mail. She provided a copy of her registered mail receipts and Canada Post tracking numbers as evidence for this hearing. However, the tenant stated at the outset of this hearing that she was not sure the landlord knew about the hearing. The tenant testified that the landlord would not provide her with an address for service. The tenant testified that she phoned the landlord on several occasions after the end of the tenancy however the landlord refused to provide her with an address for service. The tenant did not apply to the Residential Tenancy Branch for substituted service prior to this hearing.

The tenant submitted a copy of the residential tenancy agreement the portion for the landlord's address for service was handwritten (different handwriting than the rest of the document). The tenant testified that she wrote the landlord's "address" on the residential tenancy agreement. She testified that she got the address from the phone book: the landlord's last name consists of two different names hyphenated. The tenant testified that, the address she found in the phone book was listed under one of the landlord's two last names, not both. The tenant testified that she called the landlord and asked the landlord if the address she had found was accurate and that the landlord stated that she did not reside at that address.

Proper service of documents is essential to the Residential Tenancy Dispute Resolution process to notify the respondent(s) of the application and the hearing information related to the application. It is also essential that a party be able to **prove** that they have sufficiently served the documents for a Residential Tenancy Dispute Resolution hearing. Residential Tenancy Policy Guideline No. 12, in considering the terms of service at section 88 to 90 in the *Act* states that, when the respondents do not appear at a Dispute Resolution hearing, the applicants must be prepared to **prove service under oath**.

While the tenant served her evidence by registered mail in accordance with the *Act*, the tenant was unable to provide proof that the landlord resides at the address where she sent the ADR package. Therefore, there is insufficient evidence to show that the landlord was served with the documents to provide notification of this hearing.

Prior to considering the details of the applicant's claim, I must be satisfied that the tenant/applicant sufficiently served the other party, allowing that party an opportunity to know the case against them and attend the dispute resolution hearing. Based on the evidence of the tenant that she was uncertain of the landlord's address, I find that the tenant has not sufficiently proven that the landlord was in fact served in accordance with the *Act* in a manner that allowed the landlord/respondent to be aware of the tenant's application for a monetary amount and this dispute resolution hearing. Therefore, I dismiss the tenant's application with leave to reapply.

I provide a note of caution that a landlord is required to provide an address for service pursuant to section 13(2)(e) of the *Act* (*requirements for tenancy agreements*),

13 (2) A tenancy agreement ... must set out ...

(e) the address for service and telephone number of the landlord or the landlord's agent...

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 11, 2018

Residential Tenancy Branch