



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 tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

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

The hearing was conducted by conference call. The landlord did not attend the hearing.

Preliminary Issue: Service of Tenant's Application

The tenants testified that on December 4, 2017, she sent a copy of the Application for Dispute Resolution and Notice of Hearing to the landlord by Registered Mail to the landlord's place of business which is a hotel. The tenant testified that a neighbor informed her that the landlord's owned this business. The respondent landlord is the purchaser of the rental property. She vacated the rental unit after being issued a Two Month Notice to End Tenancy as the property had sold and the purchaser intended to occupy the rental unit. The tenant testified that she had no other address for the purchaser landlord. The tenant submitted a mail tracking report showing the item was signed for by someone other than the landlord at this address. The tenant testified that she had heard that the landlord had then been forwarded the mail package.

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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 document]...*

I am not satisfied the landlord has been served with the tenant's application for dispute resolution by registered mail at an address at which he resides or carries on business as a landlord or in any other manner required by section 89(1) of the *Act*. The tenant provided insufficient evidence that the respondent owns the hotel and that he carries on business as a landlord at this address. The item was not signed for by the landlord and there is insufficient evidence that he ever received the tenant's application and notice of hearing.

Conclusion

I dismiss the tenant's application 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: July 12, 2018

Residential Tenancy Branch