



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORTHLAND PROPERTIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNDCL-S, FFL

Introduction

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

- a monetary order for damage to the rental unit and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 6 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord stated that he was the resident manager for the landlord company named in this application and that he had permission to speak on its behalf, as an agent at this hearing.

Preliminary Issue – Service of the Landlord's Application

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package by way of registered mail. He said that he did not know the date of service or the Canada Post tracking number for the registered mailing. The landlord did not provide a Canada Post receipt or tracking report with this application.

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 landlord did not provide any date for service or Canada Post tracking number for the registered mailing. The landlord did not provide any Canada Post receipt or tracking report for the hearing. The tenant did not attend this hearing to confirm receipt of the landlord's application. Accordingly, I find that the landlord failed to prove service in accordance with section 89(1) of the *Act* and the tenant was not served with the landlord's application.

At the hearing, I informed the landlord that I was dismissing the landlord's application with leave to reapply, except for the filing fee. I notified him that the landlord would be required to file a new application to pursue the monetary claims. I cautioned the landlord that he would have to prove service at the next hearing, including specific evidence regarding the date, method and proof of service.

Conclusion

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

The remainder of the landlord's 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: September 04, 2018

Residential Tenancy Branch