



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL-S, MNDL-S, MNRL-S

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on July 25, 2018 (the “Application”). The Landlord applied for the following:

- Compensation for damage to the unit;
- Compensation for monetary loss or other money owed;
- To recover unpaid rent;
- To keep the security and/or pet deposit; and
- Reimbursement for the filing fee.

The Landlord appeared at the hearing with the Translator and two witnesses who exited the room until required. The Tenants did not appear at the hearing. I explained the hearing process to the Landlord and Translator and answered the Translator’s questions in this regard. The Landlord and Translator provided affirmed testimony.

The Landlord had submitted evidence prior to the hearing. The Tenant had not submitted evidence. I addressed service of the hearing package and Landlord’s evidence.

The Translator testified that one package addressed to both Tenants was sent by registered mail to a work address that the Tenants provided on their rental application March 8, 2018. He said this was sent August 14, 2018. The Translator testified that the package was returned. He provided Tracking Number 1 as noted on the front page of this decision. With permission, I looked this up on the Canada Post website which states “[r]ecipient not located at address provided. Item being returned to sender”.

The Translator said the Landlord used the Tenants' work address because that is the only address he has for the Tenants. He confirmed the Tenants did not provide a forwarding address.

The Translator advised that the Landlord's evidence was not served on the Tenants.

Section 89(1) of the *Residential Tenancy Act* (the "*Act*") sets out the methods of service permitted for applications for dispute resolution requesting monetary compensation and states:

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;

...

(c) by sending a copy by registered mail to the address at which the person resides or...

(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)...

[emphasis added]

The Translator testified that the hearing package was sent to the work address provided by the Tenants on their rental application. This is neither the residence of the Tenants nor a forwarding address provided by the Tenants as required by section 89(1) of the *Act*. Therefore, I find the hearing package was not served in accordance with section 89(1) of the *Act*.

Aside from the address used being a work address, I am not satisfied that this is an address the Tenants are in fact available at as this was an address given to the Landlord on a rental application back in March of this year. More than five months had passed between the time the Landlord received the address and the time the hearing

package was sent to the address. I am not satisfied that the address continued to be an address at which the Tenants could be contacted.

Further, the Canada Post website shows the package was returned to the Landlord because the recipient, the Tenants, were not at the address. This further raises an issue in relation to whether the Tenants can be contacted at the work address.

I note that I have no evidence before me that the Tenants received the hearing package. The Tenants did not appear at the hearing which lasted 33 minutes.

In the circumstances, I am not satisfied the Tenants were served with the hearing package in accordance with section 89(1) of the *Act* and am not satisfied the Tenants received the hearing package.

Given the above, I did not proceed with the hearing. The Application is dismissed with leave to re-apply. This does not extend any time limits set out in the *Act*.

Conclusion

I am not satisfied the Tenants were served with the hearing package in accordance with section 89(1) of the *Act* and am not satisfied the Tenants received the hearing package.

The Application is dismissed with leave to re-apply. This does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 28, 2018

Residential Tenancy Branch