



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL –S, MNDL –S, FFL, SS

Introduction

This hearing was scheduled to deal with the landlord's application that was made on August 18, 2018 for a Monetary Order for unpaid rent and cleaning; and, authorization to retain the tenant's security deposit. The landlord and his wife appeared at the hearing; however, there was no appearance on part of the tenant.

Since the tenant was not in attendance, I explored service of hearing documents upon the tenant.

The landlord had made an Application for Substituted Service seeking authorization to serve the tenant via email since the tenant had not provided a forwarding address and mail sent to the tenant using the rental unit address was ineffective. On October 19, 2018 an Adjudicator reviewing the landlord's Application for Substituted Service and evidence granted the landlord's request and provided the following orders, as seen in the conclusion section of the decision issued on October 19, 2018:

The landlord is granted an order for substituted service. The landlord may serve the tenant the Application for Dispute Resolution and Notice of Dispute Resolution hearing documents, with supporting documents and written evidence, along with a copy of this substituted service decision, to the email addresses provided for the tenant, as indicated on the first page of this decision.

I order that documents served in this manner have been sufficiently served to the tenant for the purposes of the *Act*, three days after the date that the email is sent by the landlord to the tenant.

I further order that the landlord remains obligated to adhere to the timelines for service of evidence as set out in the Residential Tenancy Branch Rules of Procedure.

The landlord testified that he thought the Residential Tenancy Branch would have sent the hearing documents to the tenant via email. The landlord acknowledged that he appears to have missed the requirement that he serve the hearing documents to the tenant via email. The landlord confirmed that he did not send the hearing documents to the tenant via email and the last email communication with the tenant was near the end of July 2018.

Given the above, I find the landlord did not serve the tenant in a manner that was authorized or ordered by the Director by virtue of the Substituted Service order. Nor, was the registered mail sent to the tenant previous to the Substituted Service order effective since the tenant no longer resided at the rental unit at the time of mailing. I find I am unsatisfied the tenant is aware of this proceeding and to proceed would violate the principles of natural justice. Therefore, I decline to proceed with this case.

I dismiss the landlord's application with leave to reapply.

I make no order for the landlord to return the security deposit to the tenant since a tenant must first provide a forwarding address to the landlord in writing. Under section 39, a tenant has one year to provide a forwarding address to the landlord and if the tenant does not do so in that time, the tenant loses the right to seek its return.

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: December 27, 2018

Residential Tenancy Branch