



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT PSF RR RPP AAT OPT

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 60;
- an order to the landlord to provide services or facilities required by law pursuant to section 58;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 58;
- an order requiring the landlord to return the tenant's personal property pursuant to section 58;
- an order to allow the tenant to change the locks to the rental unit pursuant to section 70; and
- an Order of Possession of the rental unit pursuant to section 47.

While the tenant attended the hearing by way of conference call, the landlord did not. I waited until 9:40 a.m. to enable the landlord to participate in this scheduled hearing for 9:30 a.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply

Preliminary Issue - Service of the Application for Dispute Resolution

The tenant testified in the hearing that he had served his application upon the landlord by way of registered mail. The tenant testified in the hearing that he was unable to provide the tracking information for the package at the time of the hearing.

Section 82(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

Special rules for certain documents

82 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 6, 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 64
- (1) [*director's orders: delivery and service of documents*].

Rule 3.5 of the RTB Rules of Procedure states the following:

3.5 Proof of service required at the dispute resolution hearing

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

As the tenant could not provide proof of service of his application for dispute resolution, and as the landlord was not in attendance to confirm that he was served in accordance with the *Act*, the tenant's entire application is dismissed with leave to reapply.

The tenant expressed dissatisfaction in the hearing about his application not being heard. The tenant was explained the above service requirements and rules of procedure, and he was informed he would be receiving a copy of this decision after the hearing.

Conclusion

I dismiss the tenant's entire application with leave to reapply as the tenant was unable to provide sufficient proof of service for his application for dispute resolution.

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

Dated: January 14, 2019

Residential Tenancy Branch