



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, MNDCT, OLC, RP

Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) for an Order for the Landlord to complete emergency repairs, for monetary compensation, for an Order for the Landlord to comply with the *Act*, *Residential Tenancy Regulation* and/or tenancy agreement, and an Order for the Landlord to complete regular repairs.

The Tenant and an advocate (the “Tenant”) were present for the teleconference hearing as was the Landlord and a family member (the “Landlord”). The parties were affirmed to be truthful in their testimony.

The Landlord stated that they did not receive the Notice of Dispute Resolution Proceeding package or a copy of the Tenant’s evidence. The Landlord became aware of the Tenant’s application at a dispute resolution proceeding between the parties on January 8, 2019. He contacted the Residential Tenancy Branch to obtain the information to call into the hearing. The Landlord submitted evidence 3 days prior to the hearing and this evidence had not yet been received by the Tenant.

The Tenant provided testimony that the Notice of Dispute Resolution Proceeding package and their evidence was sent to the Landlord by registered mail. The registered mail information was submitted into evidence by the Tenant and although the mail was claimed, it was signed for by someone who is not the Landlord.

The parties confirmed that the mail was sent to the address of the rental property, although the Landlord does not reside there. The Landlord stated that it was likely another tenant on the property that signed for the package. The Tenant stated that they did not have a service address for the Landlord. As such, they found information online

regarding a business owned by the Landlord and stated that the rental property was listed as the business address.

The Tenant testified that although the Landlord resided at the rental property in the past, they were aware he no longer lived there. As the Notice of Dispute Resolution Proceeding package was not sent to a service address for the Landlord, I find that the Landlord was not served in accordance with Sections 88 and 89 of the *Act*, and as required by the *Residential Tenancy Branch Rules of Procedure*.

Preliminary and Procedural Matters

The Application for Dispute Resolution named the Landlord as a company name. However, the Landlord clarified that the Landlord was not a company and instead that he was the individual landlord. As such, the Application for Dispute Resolution was amended to correctly name the Landlord. This amendment was made pursuant to Section 64(3)(c) of the *Act*.

As the Landlord did not receive the Notice of Dispute Resolution Proceeding package and a copy of the Tenant's evidence, the hearing did not continue. The Tenant requested an adjournment as they now had the Landlord's service address.

As stated in rule 3.1 of the *Rules of Procedure*, the respondent must be served with the Notice of Dispute Resolution Proceeding package within three days. Rule 3.14 states that the respondent must receive the applicant's evidence package at least 14 days prior to the hearing.

Sections 88 and 89 of the *Act* outline the manner in which documents may be served. Section 89(1)(c) states the following regarding service of an Application for Dispute Resolution:

(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

The parties were in agreement that the Landlord does not reside at the address of the rental property. The Landlord also provided testimony that his business is not connected to his role as a Landlord. The Landlord further stated that the Tenant has his contact information and could have communicated with him to obtain a mailing address for service. As such, I find that the Landlord was not served in accordance with the *Act*.

While the Tenant requested an adjournment, as the Tenant filed the Application for Dispute Resolution they had the responsibility to serve the Landlord in accordance with Sections 88 and 89 of the *Act*. Therefore, I find that the Tenant did not meet their obligations for service and as such, the application is dismissed, with leave to reapply.

Conclusion

The Application for Dispute Resolution is dismissed with leave to reapply, due to a service issue.

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: January 15, 2019

Residential Tenancy Branch