



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNRL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on September 14, 2018 (the “Application”). The Landlord applied to recover unpaid rent and for reimbursement for the filing fee.

The Landlord appeared at the hearing. The Tenant did not appear at the hearing. I explained the hearing process to the Landlord who did not have questions when asked. The Landlord 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 Landlord testified that the hearing package was sent to the Tenant by registered mail on September 19, 2018. The Landlord had submitted the receipt for this which includes Tracking Number 1 as noted on the front page of this decision. The Landlord testified that the address he sent the package to is a hotel. I asked how he received this address for the Tenant and he said from a local pastor. He also said a woman in the hotel told the Landlord the Tenant moved into the hotel. The Landlord said the Tenant never provided him with this as his address. The Landlord said he did not serve a copy of his evidence on the Tenant.

I looked Tracking Number 1 up on the Canada Post website which shows the package was delivered and signed for September 21, 2018. I have viewed the delivery confirmation. It does not show a signature. The signatory name is not the Tenant’s name.

Section 89(1) of the *Residential Tenancy Act* (the “*Act*”) addresses service of the hearing package. This section requires the following:

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:

...

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

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant...

Rule 3.5 of the Rules of Procedure states:

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.

I am not satisfied that the address used by the Landlord is an address at which the Tenant resides. The Landlord obtained the whereabouts of the Tenant from third parties, not the Tenant himself. Further, the address is a hotel not a single residence. In addition, the package was signed for by someone with a different name than the Tenant. I cannot be satisfied in these circumstances that the Tenant was served in accordance with section 89(1) of the *Act* or that the Tenant received the package.

The Tenant did not appear at the hearing to confirm he received the hearing package. Nor did the Tenant submit evidence for the hearing such that I could be satisfied he received the hearing package.

In the circumstances, I am not satisfied of service and therefore dismiss the Application with leave to re-apply. This does not extend any time limits set out in the Act.

Conclusion

I am not satisfied of service and therefore dismiss the Application 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: January 17, 2019

Residential Tenancy Branch