



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, MNDCT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

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- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

The Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") state that the respondent must be served with a copy of the Application and Notice of Hearing.

Although the tenant provided testimony and documentary evidence showing that copies of the Application and Notice of Hearing were sent by registered mail on October 22, 2018, the tenant did not provide sufficient evidence to show that the landlord resided at that address or carried out his business at that address. The tenant testified that he had some tenancy related documents to support this, but did not submit them for this hearing. The only document before me is the notice to end the tenancy.

Section 59 of the *Act* states the following with regards to the service of the Application on the Respondent:

Starting proceedings

- 59** (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the

application to the other party within 3 days of making it, or within a different period specified by the director.

The Rules of Procedure also state the following with regards to the service of documents and evidence:

3.1 Documents that must be served with the hearing package

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Application for Dispute Resolution;
- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch; and
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].

Further to this, sections 89 of the *Act* states that an Application may only be served on a landlord by leaving a copy with the landlord or an agent of the landlord or by sending a copy by registered mail to the address at which the person carries on business as a landlord.

Given the testimony of the tenant in the hearing, and the fact that no corroborating documentary evidence was submitted by the tenant to substantiate his testimony that the addresses at which he sent the Notice of Hearing and Application are in fact addresses where the landlord conducts business as a landlord or where he resides, I find that the tenant has failed to satisfy me, on a balance of probabilities, that the landlord has been served with the Application and the Notice of Hearing, in accordance with the *Act* and the Rules of Procedure.

As a result, the application is dismissed with leave to reapply. As the tenant's application is dismissed, I decline to grant recovery of the filing fee.

Conclusion

The tenant's application is dismissed with leave to reapply.

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 21, 2019

Residential Tenancy Branch