



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT

Introduction

On September 21, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for the Landlord to return of all or part of the pet damage deposit or security deposit; and to recover the filing fee for the Application.

The Tenant S.W. appeared at the hearing; however, the Landlord did not. The Tenant provided affirmed testimony that she served the Landlord with the Notice of Hearing using mail sent on September 26, 2018.

The Tenant was unable to provide proof that she served the Notice of Dispute Resolution Proceeding to the Respondent using registered mail. The Tenant was not sure how the mail was sent.

The Tenant provided documentary evidence of a Canada Post receipt dated September 26, 2018, for the amount of \$1.89 for the cost of a stamp.

Section 89 of the Act provides the requirements regarding service of an application for dispute resolution. The Act requires that an application for dispute resolution 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 71 (1) [director's orders: delivery and service of documents].

After considering the Tenant's testimony and evidence, I find that there is insufficient evidence from the Tenant to establish that the Respondents were properly served with the Notice of Dispute Resolution Proceeding. It appears that the Tenant sent the Notice using regular mail.

Since the Respondent did not appear, and since I find that he was not served with the Notice of Dispute Resolution Proceeding in accordance with the Act, it would be against the principles of natural justice to proceed against him. The Tenants' application is dismissed in its entirety with leave to reapply.

Conclusion

The Tenants failed to serve the Respondent with the Notice of Dispute Resolution Proceeding in accordance with section 89 of the Act.

The Tenants 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 23, 2019

Residential Tenancy Branch