



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLDWELL
BANKER PRESTIGE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCL-S MNRL-S FFL

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant’s security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*, and
- Authorization to recover the filing fee for this application pursuant to section 72.

The agent JY appeared for the landlord (“the landlord”). The landlord had the opportunity to call witnesses and present affirmed testimony and written evidence.

The tenant did not appear at the hearing. I kept the teleconference line open from the time the hearing was scheduled for an additional 30 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code for the tenant had been provided.

Preliminary Issue: Service

The landlord provided affirmed testimony that the tenant vacated the unit on August 20, 2018 without providing the landlord with a forwarding address. The landlord testified he conducted enquiries and obtained the tenant's work address on October 6, 2018.

The landlord testified he sent the tenant the Notice of Hearing and Application for Dispute Resolution by registered mail on October 6, 2018 to the tenant's work address. The landlord provided the Canada Post Tracking Number in support of service to which I refer on the cover page.

The way the tenant may be served is set out in section 89 of the *Act* which does not include sending documents by registered mail to the tenant's place of employment.

The *Act* states (emphasis added):

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:

- (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].*

The landlord submitted no evidence to support a finding the tenant had been served with the Notice of Hearing and Application for Dispute Resolution pursuant to section 89.

Therefore, I find the landlord has failed to prove service as required and the application is dismissed with leave to reapply.

Conclusion

As the landlord was unable to establish the tenant had been served with the Application for Dispute Resolution as required by section 89 of the *Act*, the 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: February 06, 2019

Residential Tenancy Branch