



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDCT FF

Introduction

This hearing was convened pursuant to the tenant's application under the *Residential Tenancy Act* (the Act) for a monetary order and to recover their filing fee. The landlord and the tenant attended the teleconference hearing.

Preliminary Issue – Service of Documents

In the hearing the landlord stated they did not receive the Notice of Hearing or the tenant's application of this matter pursuant to Section 89 of the Act, however were informed of the hearing indirectly.

The tenant stated they placed their application and Notice of Hearing in the hands of a tenant at the dispute address with instructions to appropriately deliver it to the landlord. They also stated they sent their evidence to the Branch by mail; however the hearing file is absent any evidence from the tenant. The tenant further stated they sent evidence to the landlord to the tenant's old (dispute) address; however the landlord stated not receiving any evidence nor heard of any evidence from their tenant. The landlord submitted some evidence to the Branch which they attempted to serve the tenant personally on January 29, 2019, albeit late, at an address from which the tenant had moved, leaving it with the current resident. While both parties appeared in the hearing I am not convinced the tenant has informed the landlord of their action against them or that the landlord has informed the tenant of their evidence in rebuttal. The parties were offered an opportunity to settle this matter to mutual satisfaction, but to no avail. The landlord stated they have never been informed of anything related to this matter before this date.

Under the Act a party may serve a respondent of an action only by a method prescribed under Section 89. The Act does not permit service of an action by way of placing it in the hands of another individual unless that individual can then provide evidence they proceeded pursuant to Section 89.

I found that the tenant did not properly serve the landlord with Notice of this hearing or their application but also has not provided any evidence in this matter or the landlord. As a result, I find that neither party is prejudiced in dismissing this matter to allow the landlord to be properly notified with the tenant's action and for both parties to appropriately exchange evidence. I therefore **dismiss** the tenant's claim, *with leave to reapply*.

Conclusion

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

This Decision is final and binding.

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 05, 2019

Residential Tenancy Branch