



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, OLC, RP, RR, FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on November 28, 2018 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order for the Landlord to comply with the Act, Regulation or Tenancy Agreement;
- an order for regular repairs;
- an order to reduce rent for repairs, services, facilities agreed upon but not provided;
- a monetary order for damage or compensation; and
- a return of the filing fee

The hearing was scheduled for 9:30am on February 11, 2019 as a teleconference hearing. Only the Tenant appeared at the hearing and provided affirmed testimony. No one called in for the Landlord. The conference call line remained open and was monitored for 10 minutes before the call ended.

Background and Evidence - Service of Landlord's Application

The Tenant testified that he did not learn about the hearing date and time until two days ago at which point he noticed an email from the Residential Tenancy Branch which had ended up in his junk folder. The Tenant stated that he has not yet served the Landlord with his dispute resolution package or evidence. As such, the Tenant did not want to proceed with the hearing as he wanted to provide a fair opportunity to the Landlord to respond to his application.

Analysis – Service of Landlord's Application

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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 document]...*

The Tenant has not served the Landlord in a manner required by section 89(1) of the *Act*. The Tenant testified that the Landlord was not served with the Tenant's Application for dispute resolution or documentary evidence.

Conclusion

I dismiss the Tenant's Application 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 20, 2019

Residential Tenancy Branch