



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDCL-S MNRL-S OPN OPR 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*;
- An order for possession pursuant to section 55;
- 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 landlord’s agent TG attended the hearing (“the landlord”), The tenant OK attended on behalf of both tenants (“the tenant”). Both parties provided affirmed testimony. Each party had the opportunity to make submissions, present documentary evidence, call witnesses and cross examine the other party.

Preliminary Issue – Service of Notice of Hearing and Application for Dispute Resolution

The tenant stated he had not been served with the Notice of Hearing and Application for Dispute Resolution. The tenant testified he appeared at the hearing because he had

received a reminder notice from the RTB. He stated this was the first notice he received that the landlord had brought proceedings against him with respect to the tenancy.

The landlord testified that on January 18, 2019, he sent the above documents by registered mail to the tenant at the address of the unit. On January 20, 2019, the landlord attended at the unit and learned the tenant had vacated the unit earlier without leaving a forwarding address.

During the hearing, the tenant provided the landlord with an address for service.

The way the tenant may be served is set out in Section 89 of the *Act* which states:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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*].

I find the landlord did not serve the tenant at the address at which the tenant resided s

Therefore, I find the landlord did not serve the tenant with the documents as required by section 89. Accordingly, I dismiss the landlord's application with leave to reapply.

Conclusion

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 28, 2019

Residential Tenancy Branch