



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-S, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlord, J.C. attended the hearing via conference call and provided testimony. The landlord, R.C. attended the hearing via conference call and provided testimony that he wished for the landlord, J.C. to speak on his behalf. The tenant did not attend or submit any documentary evidence.

At the outset, the landlords stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via email. The landlords stated that a request for substitute service was made, but that no response was returned by the Residential Tenancy Branch. A Review of the Residential Tenancy Branch File shows a request made on March 7, 2019. The tenant confirmed that she was not contacted regarding the substitute service request, nor did she inquire.

Section 88 of the Residential Tenancy Act states in part 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)[directors orders: delivery and service of documents].

Section 71 (1) of the Act states in part that a notice, order, process or other document may be served by substituted service in accordance with the order and is considered necessary, despite sections 88 and 89 of the Act.

A review of the landlord's request for substitute service application dated March 7, 2019 shows that it was received and uploaded on March 7, 2019. No details of the landlord's attempted service were given, only that the tenant did not provide a forwarding address. No email was provided in which the applicant was seeking to serve the respondent. However, a review of the File shows that the request was not processed or forwarded to an Arbitrator.

On this basis, the landlord's application for dispute is pre-mature as substituted service was not granted to the landlord. The landlord's application is dismissed with leave to reapply for lack of service. Leave to reapply is not an extension of any applicable limitation periods.

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: June 27, 2019

Residential Tenancy Branch