



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on June 6, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- A monetary order for the return of the security deposit

The Landlord did not attend the hearing. The Tenant attended the hearing with his mother (collectively referred to as the "Tenant") and stated that he sent the Notice of Hearing and evidence to the Landlord by registered mail on February 23, 2019, a receipt for which was provided into evidence. The Tenant stated he mailed it to the address of the rental unit that he was supposed to move into.

The Tenant stated that this rental unit was a furnished rental unit and that he was supposed to rent it for one month. However, he never ended up moving in. The Tenant stated that he paid a deposit to the Landlord, and then their discussions went sideways, and the communications broke down. The Tenant stated that the Landlord has several properties, and was planning on going on an extended trip to Mexico, which is why the Landlord put his place up for rent. The text message communication provided into evidence shows that the Landlord intended on moving out his "personal belongings", prior to renting out his place.

Having considered the totality of the evidence and the testimony on this matter, I question how the Tenant would know, with any degree of certainty, that this is still the Landlord's mailing address or place of residence. I find there is insufficient evidence that

the Landlord still resides at this address or that this is his mailing address since the time he packed up his personal belongings and started renting it out at the beginning of November 2018. Subsequently, when the Tenant sent his application and evidence to this address in February 2019, I am not satisfied this is sufficient to demonstrate that the Landlord has been served for the purposes of this Act.

I note there is no tenancy agreement provided into evidence, and no documentary evidence showing the Tenant ever received a mailing address or an address for service from the Landlord. It appears the Tenant is relying on the fact that the Landlord was going to return to, and live in the rental unit after the Tenant rented the unit for a period of one month. The Tenant did not provide any further evidence that he was able to confirm that the Landlord ever moved back into the rental unit. I also note that the Tenant directly stated the Landlord has multiple properties, which makes it even less clear, without further evidence, where the Landlord is residing.

Serving a party with the Notice of Hearing is a critical part of the proceedings, as it puts the other party on notice as to the case against them. In this case, I dismiss the Tenant's application, with leave to reapply.

The Tenant is granted leave to reapply for a new hearing, in the event he is able to provide more substantive evidence that can demonstrate where the Landlord is currently residing.

The Tenant may wish to personally serve any future applications to alleviate any questions with respect to whether or not it is the Landlord's actual address. However, whether or not any future applications have been sufficiently served remains up to the Arbitrator conducting that hearing.

As the Notice of Hearing has not been sufficiently served for the purposes of this *Act*, I dismiss the Tenant's application in full, with leave to reapply.

Conclusion

I dismiss the Tenant's application in full, 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: June 06, 2019

Residential Tenancy Branch