



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GALE HORTH HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, FFL

Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for monetary compensation for damages, to retain the security deposit towards compensation owed, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing while no one called into the hearing for the Tenant during the approximately 28 minutes that the phone line was monitored.

The Landlord was affirmed to be truthful in his testimony and the hearing continued, although the Landlord was informed that a decision regarding service would be made following the hearing.

The Landlord stated that the Tenant was served by registered mail with the Notice of Dispute Resolution Proceeding package and a copy of their evidence. The registered mail information was submitted into evidence and the tracking number is included on the front page of this decision.

Entering the tracking number on the Canada Post website confirms that the package was delivered on May 6, 2019 but was signed for by someone with a different name than the Tenant.

The Landlord stated that the Tenant was avoiding service and referenced a notarized affidavit submitted into evidence which was signed by a process server. In the affidavit, the process server states that they attempted to serve the Tenant in person at the address the registered mail was sent to.

The process server states that they attended the address on March 21, 2019 and spoke to someone there who confirmed that the Tenant does not reside there but is able to collect mail

that is sent there. The written submission also outlines attempts to meet with the Tenant in person and speak to the Tenant on the phone.

The Landlord stated that the Tenant did not provide them with a forwarding address. He was unsure of how the address that the documents were sent to was obtained but stated his belief that it was obtained through the process server or the notary.

The affidavit notes the address but does not provide information on how it was obtained or how the address was determined to be connected to the Tenant.

An Application for Dispute Resolution must be served to the other party as required by rule 3.1 of the *Residential Tenancy Branch Rules of Procedure* and must be served in a manner pursuant to Section 89 of the *Act*. Regarding sending documents by registered mail, Section 89(1)(c) states that service may occur through the following method:

(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

Based on the affidavit from the process server and the testimony of the Landlord, I am not satisfied that the Tenant resides at the address where the registered mail was sent and therefore am not satisfied that the Tenant was served in accordance with the *Act* and as required by the *Rules of Procedure*.

Accordingly, this application is dismissed with leave to reapply, due to a service issue. I note that the Landlord may consider applying for a substituted service order if unable to serve the Tenant in accordance with Sections 88 and 89 of the *Act*.

Conclusion

Due to a service issue, this Application for Dispute Resolution 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: July 09, 2019

Residential Tenancy Branch