



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT, RPP

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on May 30, 2019, (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord return all or part of the security deposit;
- a monetary order for damage or compensation; and
- an order for the Landlord to return the Tenant's personal property.

The Tenant as well as the Landlord and the Landlord's counsel, A.M., attended the hearing at the appointed date and time, and provided affirmed testimony.

Preliminary Matters Service of Tenant's Application

The Tenant testified the Application and documentary evidence package was served to the Landlord by registered mail on May 31, 2019. A Copy of the Canada Post registered mail receipt was submitted into evidence in support. The Landlord testified that he has not received the Tenant's Application and documentary evidence. The Landlord stated that he only learned about the hearing date and time after receiving an email from the Residential Tenancy Branch.

After further review, the registered mail receipt submitted by the Tenant contains the dispute address instead of the Landlord's address for service. The parties submitted a copy of the tenancy agreement which accurately reflects the Landlord's address for service, which was not the address that the Tenant mailed the Application and documentary evidence package to.

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]...

[My emphasis added]

In this case, I find that the Tenant has not served the Landlord in a manner required by section 89(1) of the *Act*. As such, I accept that the Landlord did not receive the Tenant's mailing.

The Landlord stated that once he learned about the hearing, he sent his evidence package to the Tenant's forwarding address which the Tenant had provided to the Landlord. The Tenant stated that he did not receive the Landlord's evidence as he has moved.

In light of the above, I find that neither party was served with the respective packages in preparation for this hearing. As such, I dismiss the Tenant's Application with leave to reapply.

Conclusion

The Tenant did not serve the Landlord his Application and documentary evidence package as outlined in Section 89 of the *Act*. I dismiss the Tenant's Application with leave to reapply. This is not an extension of any statutory deadline.

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 12, 2019

Residential Tenancy Branch