



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL-S MNRL-S

Introduction

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

- a monetary order for unpaid rent and utilities, monetary loss, or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

While the landlord's agent, TR, ("landlord") attended the hearing by way of conference call, the tenant did not. I waited until 1:40 p.m. to enable the tenant to participate in this scheduled hearing for 1:30 p.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. During the hearing, I confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

Preliminary Issue - Service of the Application for Dispute Resolution

The landlord's agent testified during the hearing that she had served the tenant with her evidence package by way of Registered Mail on June 17, 2019. The landlord had originally received a Notice of Hearing with an incorrect hearing date of June 14, 2019 after filing her application on June 6, 2019. The landlord's agent testified that she was issued a new Notice of Hearing for the new scheduled hearing date of September 19, 2019, but did not re-serve the tenant with a new hearing package containing the new, correct hearing information as she was not aware that this was required.

Section 89 of the *Act* establishes the following special rules for service of documents.

Special rules for certain documents

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 confirmed that although the landlord was issued a notice of hearing containing the incorrect hearing information, a new notice of hearing was issued to the landlord with the correct call-in numbers and participant codes on June 20, 2019, and instructions.

As the tenant was not re-served with this new notice of hearing and correct call-in numbers and participant codes, and as the tenant was not in attendance, I am unable to verify that the tenant was served in accordance with section 89 of the *Act*. Accordingly, I dismiss the landlord's entire application with leave to reapply.

Conclusion

I dismiss the landlord's entire application for dispute resolution 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: September 19, 2019

Residential Tenancy Branch