



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Decision Codes: MNRT, MNSD, MNDCT, FFT

Introduction

The Application for Dispute Resolution filed by the Tenant makes the following claims:

- a. A monetary order in the sum of \$7270 for reimbursement of rent collected contrary to the Act, a return of the security deposit and for the cost of emergency repairs.
- b. An order to recover the cost of the filing fee.

The Landlord failed to appear at the scheduled start of the hearing which was 1:30 a.m. on September 9, 2019. The Tenant Applicant was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the schedule start time in order to enable the landlord to call in. The landlord failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The tenant was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at the hearing a decision has been reached. All of the evidence was carefully considered.

The tenant testified he attempted to serve the landlords by mailing, by registered mail to the address of the rental property on June 6 2019. The Tenants' Application for Dispute Resolution was returned with the notation "unclaimed." The tenant testified the landlords failed to provide them with the address of their residence or an address for service at the start of the tenancy and refused to provide them with their address at the end of the tenancy. .

I determined the Tenants failed to prove that they have sufficiently served the landlords as required by the Residential Tenancy Act.

The Residential Tenancy Act provides that where a party is seeking a monetary order it must serve the other party either by personal service or by registered mail to where the respondent resides or if the other party is a landlord, by registered mail to where the landlord carries on business. The Act and Policy Guidelines do not provide that service by registered mail to the rental property the tenant previously resided in is a sufficient form of

service. The landlords did not appear at the hearing or provide evidence in any form. The Tenants failed to provide sufficient evidence of any subsequent contact with the landlords that would indicate the landlords have received the documents or are aware of the hearing. I determined there is a strong likelihood that the landlords are not aware of this hearing.

Accordingly, **I order the application dismissed with liberty to reapply.** I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

The tenants may wish to consider obtaining the assistance of a solicitor or a Tenant's Advisory group or talk to an information officer at the Residential Tenancy Branch to find out what steps they might take to find out the address where the landlords reside, what is necessary to obtain an order of Substituted Service and/or what is necessary to prove their claims..

Conclusion:

I dismissed the application of the Tenants with liberty to re-apply as the Tenants failed to prove that they sufficient served the landlords with a copy of the Tenants' Application for Dispute Resolution.

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 09, 2019

Residential Tenancy Branch