



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD MNR FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing was held on September 19, 2019. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss under the Act and for unpaid rent or utilities;
- permission to retain the security deposit to offset the rent he is owed; and,
- to recover the filing fee from the Tenant for the cost of this application.

The landlord attended the hearing and provided testimony. The tenant did not attend the hearing.

The Landlord stated that he sent a copy of the Application for Dispute Resolution and Notice of Hearing to the Tenant by registered mail on or around April 26, 2019. The Landlord stated that he sent the package to the Tenant, at her place of work. The Landlord stated the Tenant never gave her forwarding address, so he had to find the location of the business she owns and operates. The Landlord stated, and provided a copy of the signature, that an individual named J.C. signed for the package at the Tenant's business. However, there is insufficient evidence that the Tenant got this package, or received it.

I have considered the Landlords testimony and evidence on this matter. I note that serving an application package and a notice of hearing must be done in a certain manner, as set out in section 89 of the Act. Section 89 specifies the following:

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 find there is insufficient evidence to show that the Tenant provided this particular address as their forwarding address. Further, given the address utilized by the Landlord for service is the Tenant's place of work, it is unlikely that the Tenants reside there. Ultimately, I find the Landlord has failed to serve the Tenants with his Notice of Hearing and application in accordance with section 89 of the Act.

I encourage the Landlord to utilize one of the approved methods of service, as laid out above. I note that serving documents in person can occur anywhere, but should this option be utilized, proof of service (witness or process server) may be required to prove service was affected appropriately. I find it important to note that registered mail may only be delivered in one of the manners laid out under section 89. Should the Landlord wish to serve the Tenants in an alternative manner to the options above, he should apply for an order for substituted service with the Residential Tenancy Branch.

Since the Landlord has failed to sufficiently serve his application, I dismiss his application, with leave to reapply.

Conclusion

The Landlord's application 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: September 19, 2019

Residential Tenancy Branch