



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, MNDCT, RPP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on July 16, 2019 (the “Application”). The Tenant applied for return of personal property, compensation for monetary loss or other money owed and reimbursement for the filing fee.

The Tenant appeared at the hearing with the co-tenant and witness. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenant who did not have questions when asked. The Tenant provided affirmed testimony.

The Tenant submitted evidence prior to the hearing. The Landlord did not. I addressed service of the hearing package and Tenant’s evidence.

The Tenant testified that the hearing package and evidence were sent by registered mail to a correctional institution on July 24, 2019. The Tenant testified that the Landlord was in the correctional institution at the time and that the Tenant knew this through the Landlord’s “PO” and daughter. I understood the Tenant to say the Tenant received this information via text at the end of May or beginning of June. I also understood that the Tenant was told this in person.

The Tenant submitted a receipt for the registered mail package and a photo of the package. The package included Tracking Number 1. It was sent to a correctional institution and includes the Landlord’s name.

I looked Tracking Number 1 up on the Canada Post website. The only information it shows is “Duplicate PIN”. It does not provide any information about when the package was sent, when it was delivered, if it was delivered or who signed for it.

Section 89(1) of the *Residential Tenancy Act* (the “*Act*”) outlines the methods of service permitted for this Application and states:

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...

[emphasis added]

Here, the package was sent to a correctional institution. This is not clearly a residence or place of business. The Tenant did not provide any evidence showing the Landlord said he could be reached at this address or said he was in the correctional institution. The Tenant obtained this information from third parties. The Tenant did not submit any evidence showing the third parties confirmed the Landlord could be reached at the correctional institution as of July 24, 2019 when the package was sent.

There is no evidence before me showing the Landlord received the package. The Canada Post website does not show the usual information provided for a tracking number. It does not show that the package was ever delivered and does not show whether someone signed for the package or, if someone did, who signed for it. The Tenant did not submit correspondence from the Landlord showing he received the package. The Landlord did not submit evidence for the hearing and did not attend the hearing.

In the circumstances, I am not satisfied the Landlord was served in accordance with section 89(1) of the *Act*. Nor am I satisfied the Landlord received the hearing package such that I would find it sufficiently served under section 71 of the *Act*.

Given I am not satisfied of service, I dismiss the Application with leave to re-apply. This does not extend any time limits set out in the *Act*.

Conclusion

I am not satisfied of service and therefore dismiss the Application with leave to re-apply. This does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: September 24, 2019

Residential Tenancy Branch