



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, MNRL, FFL

Introduction, Preliminary and Procedural Issues

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (Act). The landlords applied for a monetary order for money owed or compensation for damage or loss under the Act, the tenancy agreement or the regulation and for unpaid rent, and for recovery of their filing fee paid for this application.

The landlords listed another respondent, VB, as a tenant in their application; however, during the course of the hearing, the landlords confirmed that there was no written tenancy agreement and it was only AV who moved into the rental unit in June 2019, with the understanding he would do work about the rental unit in exchange for monthly rent.

The landlords were unaware when VB moved into the rental unit and she was not given permission to live there, according to the landlord.

I therefore determined that the landlords failed to provide sufficient evidence that VB was ever a tenant. I find the evidence supports that VB, who is the girlfriend of the tenant, was an occupant, whether full-time or not was not established. I have therefore not named VB as a tenant/respondent in the style of cause page of this Decision.

The landlords attended; the tenant did not attend the telephone conference call hearing.

As the tenant was not present, the matter of service of the landlords' application and hearing documents was considered at length.

In response to my inquiry, the landlords said they sent their application for dispute resolution and notice of hearing documents by registered mail to the address of the VB's mother's house. The registered mail was uncollected by the tenant.

The landlord said that she knew the tenant lived at that address as she inquired at the tenant's place of employment and they confirmed that address.

The landlords submitted that the tenant vacated the rental unit without notice sometime in August 2019, and there was no evidence that he provided a forwarding address.

Analysis and Conclusion

After the hearing, I reviewed the evidence of the landlords in determining whether the tenant was properly served the landlords' application.

Section 89(1) of the Act indicates the ways in which an application for dispute resolution must be given, such as in the case of the landlord's claim for a monetary order:

- (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*].

In the case before me, I find that the landlords failed to provide sufficient evidence that the address they used to serve the tenant with their application for dispute resolution was his place of residence, pursuant to section 89(1)(c). The landlords also did not have a forwarding address for the tenant.

I do not find that the unsubstantiated hearsay statement of the tenant's place of employment was sufficient evidence that the address used was the tenant's place of residence.

The landlords additionally did not apply for an order for substituted service in advance of the hearing.

Due to the above, I therefore find the landlords submitted insufficient evidence that they served the tenant their application for dispute resolution and notice of this hearing in a manner required by the Act.

Both parties have a right to a fair hearing and the tenant would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore dismiss the landlords' application, with leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

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: January 3, 2020

Residential Tenancy Branch