



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDCT

Introduction

This hearing was scheduled for 1:30 p.m. on this date, via teleconference call, to deal with the tenant's application for a Monetary Order for return of the security deposit and return of rent for two months. The tenant appeared at the hearing; however, there was no appearance on part of the landlord.

Since the landlord did not appear for the hearing, I explored service of hearing documents upon the landlord.

The tenant testified that on October 18, 2019 she left the proceeding package and evidence on the door handle of a property that she was initially supposed to rent from the landlord and the landlord had indicated to the tenant that it was her property. When the tenant went to that property on October 18, 2019 nobody answered the door, so she left the package on the door handle.

Although the tenant was supposed to rent a room at the property described above, the landlord had informed her that the room was no longer available, and the tenant ended up renting a room at another property that the landlord said belonged to her friend even though the landlord took the security deposit and the rent and signed a tenancy agreement for that other property. The tenancy agreement signed by the parties was provided as evidence. It was written in a different language; however, the tenant provided a translated version of the agreement. I noted that the tenancy agreement did not provide for the landlord's service address.

The tenant stated that she had been provided another address for the landlord when the landlord provided the tenant with a copy of her driver's license; however, when the tenant went to that location there was no answer at the door and the tenant is not sure

the landlord resides at that address. The tenant did not attempt otherwise attempt to serve the landlord at the address appearing on the landlord's driver's license.

The tenant indicated that she is suspicious the landlord is not actually a landlord and it appears the landlord may have disappeared. The tenant described how she and the landlord were supposed to meet in a public place so that the landlord may refund the security deposit and the rent to the tenant but that the landlord did not show up.

Section 89 provides for the ways an Application for Dispute Resolution and other required documents must be served upon the respondent. Where the Application for Dispute Resolution pertains to a monetary claim, a tenant must serve the landlord, or landlord's agent, in person; or, send it to the landlord via registered mail; or, use another method of service that is authorized under a Substituted Service Order. Sending registered mail to a landlord must be sent to an address "at which the respondent carries on business as a landlord".

It is unclear as to whether the address where the tenant left the hearing package is the landlord's address of doing business as a landlord but in any event leaving the documents on a door handle is not an acceptable method of service. Further, since the landlord did not appear for the hearing or make any submissions prior to the hearing, I do not deem the landlord sufficiently served.

Since the tenant's Application for Dispute Resolution was not properly served upon the landlord, I dismiss the tenant's application with leave to reapply.

I also noted during the hearing, that it appeared the tenant has yet to provide the landlord with a forwarding address in writing and the tenant confirmed that she did not provide the landlord with her address despite the landlord's request for it. Under section 38(1) a tenant must first provide the landlord with a written forwarding address and allow the landlord 15 days to repay the security deposit, or make a claim against it, before the tenant may seek return of the security deposit. The forwarding address the tenant provides does not need to be the tenant's residence but may be any address where the tenant may receive mail. If the landlord violates section 38(1) of the Act, the tenant may seek return of double the security deposit.

Conclusion

The tenant'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: February 06, 2020

Residential Tenancy Branch