



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD MNDC FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing was held on March 23, 2020. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or loss under the Act;
- a monetary order for the return of his security deposit; and,
- to recover the filing fee from the Landlord for the cost of this application.

Preliminary Matters

The Landlord did not attend the hearing. The Tenant attended the hearing and stated that he moved out of the rental unit on November 16, 2017, and did not file this application until October 30, 2019, just less than two years after the tenancy ended. The Tenant stated that after he moved out in November of 2017, he asked for his deposit back, and the Landlord denied the request sometime in December 2017. The Tenant stated that after this, he did not follow up with the Landlord and has not had any contact with the Landlord since.

The Tenant provided registered mail tracking information as part of his evidence package, showing that he sent the Notice of Hearing to the Landlord by registered mail on November 9, 2019. The Tenant stated that he sent the package to the address he had for service while he was a tenant. The Tenant uploaded a copy of a Notice to End Tenancy from the Landlord in October of 2017, and it lists the Landlord's address for service. The Tenant stated he sent this Notice of Hearing to that same address. The Tenant stated he believes the Landlord still owns this house. However, he did not provide sufficient direct testimony or evidence to corroborate that this is either the

Landlord's current place of business or current residence. I note the Tenant stated he has had no contact with the Landlord in nearly two years, and it is unclear how the Tenant would know, with any degree of certainty, that the Landlord is still either conducting business or residing at the address he sent the package to.

I reviewed the tracking information, and I note it says the following:

Nov. 13, 2019 11:19 am *Recipient not located at address provided. Item being returned to sender.*

It is clear the package was not delivered based on the Tenant's own evidence. I note the amount of time that has lapsed since the Tenant moved out. I also note the lack of evidence showing what steps the Tenant took, more recently, to verify the address he had for the Landlord was still active, particularly in light of the returned mail status message.

There appears to be a certain amount of presumption that this is currently the Landlord's mailing address. I find there is insufficient evidence to show that the Tenant would have a reasonable expectation that the Landlord would be able to receive mail at the address he had from two years ago. Ultimately, I find the Tenant has failed to sufficiently serve the Landlord with the Notice of Hearing. Administrative fairness is paramount in these hearings, and it is important for the respondent to be sufficiently served in accordance with the Act.

As the Notice of Hearing has not been sufficiently served for the purposes of this Act, I dismiss the Tenant's application in full. The Tenant is not granted leave to reapply, given it has been well over 2 years since the end of the tenancy. I note the following portion of the Act:

Latest time application for dispute resolution can be made

60 *(1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.*

Conclusion

I dismiss the Tenant's application in full, without 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: March 24, 2020

Residential Tenancy Branch