



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, FFL

Introduction

On November 8, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking a monetary order for unpaid rent; a monetary order for damage or repairs; and to keep the security deposit and to recover the cost of the filing fee.

The matter was set for a conference call hearing. The Landlord attended the teleconference hearing; however, the Tenant did not.

The Landlord testified that the Tenant moved out of the rental unit on October 15, 2019. The Landlord applied for Dispute Resolution on November 8, 2019 and did not have a forwarding address to use as the Tenant’s address. The Landlord used the dispute address as the Tenant’s address. The Landlord’s monetary claim is for approximately \$8,900.00.

The Landlord was asked how the Tenant was served with the Notice of Dispute Resolution Proceeding. The Landlord testified that on November 16, 2020 he sent the Notice using registered mail to the Tenant’s workplace. The Landlord testified that he had previously met with the Tenant at her workplace to serve her with a tenancy notice.

When the Landlord was asked how he is sure the Tenant still works there, the Landlord testified that the registered mail was signed for. The Landlord was asked who signed for the mail and he did not know. The Landlord did not provide any documentary evidence showing that the Tenant signed for the registered mail.

The Landlord lives in the same city as the Tenant. The Landlord was asked why he did not serve the Notice of Dispute Resolution Proceeding to the Tenant in person at her

workplace, and the Landlord responded that he believed it needed to be served using registered mail.

The Landlord's application did not include a request for substituted service under section 71 of the Act.

Section 89(1) of the Act provides that 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;
- (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*].

A fundamental principle of natural justice is that a party subject to a proceeding has a right to receive notice of the hearing and have an opportunity to participate or respond.

In the circumstances, I find that it is not reasonable to conclude that the Tenant resides at the address where the Landlord sent the Notice; and it is not reasonable to conclude that the Tenant received the registered mail that was sent to her workplace. I find that the Tenant was not properly served with the Notice of Dispute Resolution Proceeding and consequently the deemed received provisions under section 90 of the Act do not apply.

The Landlord's application is dismissed with leave to reapply.

Conclusion

I find that the Tenant was not properly served with the Notice of Dispute Resolution Proceeding. 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: March 30, 2020

Residential Tenancy Branch