



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HUGH & MCKINNON
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S FFL

Introduction and Analysis

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for a monetary order in the amount of \$4,450.00 for unpaid rent or utilities, and to recover the cost of the filing fee.

An agent for the landlord DD (agent) attended the teleconference hearing. The agent testified that the tenant was served at the rental unit address by registered mail on November 30, 2019. The agent also confirmed that the tenant vacated the rental unit on November 30, 2019. Section 89(1)(c) of the Act states that when sending the application by registered mail it must be where the tenant resides and the tenant vacated the same day it was mailed and as a result, I find the tenant was not served in a method approved under the Act. While section 89(1)(d) of the Act allows for the registered mail to be sent to the forwarding address of the tenant, the agent confirmed that the tenant has not provided a forwarding address.

Although the agent claims that she was advised by an Information Officer that they could serve the tenant at the tenant's last known address, the Act does not allow for the respondent tenant to be served at an address where the landlord knows the tenant is no longer residing. Both parties have the right to a fair hearing. The tenant would not be aware of the hearing without having received the Notice of Hearing and application. Therefore, **I dismiss** the landlord's application **with leave to reapply** as I am not satisfied that the tenant has been sufficiently served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

The landlord is at liberty to apply for an order for substituted service under the Act. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The filing fee is not granted due to the service issue.

Conclusion

The landlords' application is dismissed with leave to reapply due to a service issue.

This decision does not extend any applicable time limits under the Act.

The filing fee is not granted as noted above.

This decision will be emailed the parties at the email addresses for the parties included in the landlord's application.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 24, 2020

Residential Tenancy Branch