



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prospero International Realty and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDCT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on November 29, 2019 (the “Application”). The Tenant applied for return of the security deposit and compensation for monetary loss or other money owed.

The Tenant appeared at the hearing. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenant. The Tenant provided affirmed testimony.

The Tenant had S.G. call into the hearing to assist him; however, S.G. was not aware of the proceedings and exited the call without warning or explanation within a few minutes of calling into the hearing.

The Tenant submitted evidence prior to the hearing. The Landlord did not. I addressed service of the hearing package and evidence. The Tenant testified as follows.

He sent the hearing package by regular mail to the rental unit building address on December 04, 2019. He received the package back with a note that the address was incorrect. He had mailed the package to the Property Manager. A photo of the package is in evidence.

At the end of December, he attended the rental unit building and put the package in the general mailbox for the complex.

In mid-January, he sent the package by regular mail again to the rental unit building address. The package was returned with a note that the recipient does not live at the address.

The Tenant submitted a photo of the package. It is stamped December 06, 2019. There is a sticker on it stating, "Address Incomplete" and "Return to Sender". There is a notation on it of "unit # ?"

The Tenant submitted a Shelter Information form with the Landlord's address on it. The address on the form is the address the Tenant put on the package.

Section 89(1) of the *Residential Tenancy Act* (the "*Act*") sets out the permitted methods of service for the hearing package and states:

89 (1) 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)...

There are two issues with service here.

First, section 89(1) of the *Act* does not permit service by regular mail or by leaving the hearing package in a mailbox. These are the two ways in which the Tenant served the hearing package.

Second, the evidence shows the address on the package was incomplete and therefore the package was returned to the sender. I acknowledge that the address used is the address shown on the Shelter Information form. However, I am not satisfied the Landlord would have been aware that the address on the Shelter Information form would be used as an address for service. If the Landlord had provided the address on a written tenancy agreement, notice to end tenancy or Application for Dispute Resolution as their contact address, the Tenant would have been permitted to serve the Landlord

at that address. But upon review of the Shelter Information form, I am not satisfied it is the equivalent of these other documents.

In the circumstances, I am not satisfied the hearing package was served in accordance with section 89(1) of the *Act* as required. Nor am I satisfied the Landlord received the hearing package. Given I am not satisfied of service, I dismiss the Application with leave to re-apply. This decision does not extend any time limits set out in the *Act*.

Conclusion

The Application is dismissed with leave to re-apply. The Tenant can re-apply for the issues raised in the Application. However, the Tenant must serve the Landlord in accordance with section 89(1) of the *Act*. Further, this decision does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 04, 2020

Residential Tenancy Branch