



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN NATIONAL RELOCATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, MNSD, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on January 2, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or compensation;
- an order that the Landlord return the Tenant's security deposit; and
- an order granting the return of the filing fee.

The hearing was scheduled for 1:30pm on June 1, 2020 as a teleconference hearing. S.M. appeared on behalf of the Corporate Tenant and provided affirmed testimony. No one appeared for the Landlord. The conference call line remained open and was monitored for 25 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that S.M. and I were the only persons who had called into this teleconference.

S.M. testified that the Tenant's Application and documentary package was sent by registered mail to the Landlord on January 14, 2020. S.M. stated that one of her colleagues sent the registered mail to the dispute address. S.M. stated that the Landlord had previously served a Two Month Notice to End Tenancy for Landlord's Use of the Property dated October 10, 2018. As such, the Tenant assumed that the Landlord ought to be residing at the dispute address.

S.M. stated that she later received the Tenant Application package returned to sender. S.M. stated that she received the Landlord's address for service on April 24, 2019 from the Landlord's Agent. The Tenant provided a copy of the email which stated that the Landlord does not reside at the dispute address. The Landlord's Agent provided the Tenant with the Landlord's address for service on April 24, 2019.

During the hearing, the S.M. could not confirm if the Tenant served the Application and documentary evidence to the Landlord at the Landlord's forwarding address.

Preliminary Matters

According to the Residential Tenancy Branch Rules of Procedure 3.1 (the "Rules of Procedure"); the applicant must, within three days of the Notice of Dispute Resolution Proceeding Package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the Notice of Dispute Resolution Proceeding provided to the applicant by the Residential Tenancy Branch, which includes the Application for Dispute Resolution;*
- b) the Respondent Instructions for Dispute Resolution;*
- c) the dispute resolution process fact sheet (RTB-114) or direct request process fact sheet (RTB-130) provided by the Residential Tenancy Branch; and*
- d) any other evidence submitted to the Residential Tenancy Branch directly or through a Service BC Office with the Application for Dispute Resolution, in accordance with Rule 2.5 [Documents that must be submitted with an Application for Dispute Resolution].*

According to 3.5; at the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

Section 89 of the Act establishes the following Special rules for certain documents, which include an application for dispute resolution: 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 document]...

I find that the Tenant provided insufficient evidence to demonstrate that they served the Landlord in a manner required by Section 89(1) of the *Act* to the Landlord's address for service. I find that the Two Month Notice to End Tenancy for Landlord's may have been served by the Landlord for the purpose of having the Landlord's close family members occupying the rental unit. As such, I find that the Landlord was not properly served by registered mail on January 14, 2020.

I accept that the Tenant received the Landlord's address for service from the Landlord's Agent on April 24, 2019. As such, I find that the Tenant was aware of the Landlord's address for service prior to submitting their Application for Dispute Resolution on January 2, 2020. I find that the Tenant provided insufficient evidence to demonstrate that they served the Landlord a copy of the Application and documentary evidence to the Landlord's address for service in accordance with the *Act*.

In light of the above, I dismiss the Tenant's Application with leave to reapply. This is not an extension of any statutory deadline.

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: June 01, 2020

Residential Tenancy Branch