



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 127 SOCIETY FOR HOUSING
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act"), for:

- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 9 minutes. The landlord's two agents, landlord RB ("landlord") and "landlord LG" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord stated that she was the community worker and that landlord LG was the manager of tenancy services, both employed and authorized to speak of the landlord company named in this application. Landlord LG did not testify at this hearing.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package by way of registered mail on February 5, 2020. She said that the mail was sent to a forwarding address provided by the tenant. She maintained that the tenant did not attend the move-out inspection with the landlord. She confirmed that the landlord did not provide proof of how or when the forwarding address was obtained from the tenant. She stated that the mail was returned to the landlord sender as "unknown" and she did not know where the tenant was located.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

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) [director's orders: delivery and service of documents].*

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service,** or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report.***

Accordingly, I find that the landlord did not properly serve the tenant with the landlord's application, as required by section 89 of the Act and Residential Tenancy Policy Guideline 12. The landlord was unable to provide documentary proof of a forwarding address given by the tenant, or how or when this occurred. The landlord did not provide a Canada Post receipt, tracking number, or tracking report with this application. The mail was returned to the landlord as "unknown." The tenant did not attend this hearing to confirm service.

I notified the landlord that the landlord's application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed her that the landlord could file a new application and pay a new filing fee, if the landlord wishes to pursue this matter further. I informed her that if the landlord was serving again by registered mail, the landlord would be required to provide documentary proof of the tenant's valid and current

forwarding address, as well as proof of the registered mail as per Residential Tenancy Policy Guideline 12 above.

I notified the landlord that the landlord could obtain information only, not legal advice, from information officers at the Residential Tenancy Branch, if required. I informed her that the landlord could obtain a lawyer in order to get legal advice regarding any future application, if the landlord required legal assistance.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of 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: June 26, 2020

Residential Tenancy Branch