



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, FFL**

Introduction

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

- A monetary order for rent and/or utilities and authorization to retain a security deposit pursuant to sections 38 and 67; and
- Authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:45 p.m. to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing and testified he served the tenant with the Notice of Dispute Resolution Proceedings package by registered mail. The landlord provided a tracking number as proof of service. The landlord testified the tenant did not provide any notice of forwarding address to him when he moved out; it was verbally given to the landlord by the tenant's estranged wife. The landlord testified that the tenant's estranged wife may also have disputes with the tenant unrelated to the tenancy. The landlord did not have any other documentary evidence to corroborate the veracity of the forwarding address verbally given to him by the tenant's estranged wife.

Preliminary Issue - Service

Section 89 of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution:

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 document]...*

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure provide that 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.

Based on the evidence before me, I am not satisfied the tenant provided the tenant with a forwarding address and therefore the landlord was not able to serve the tenant in accordance with section 89(1)(d). The landlord's Application for Dispute Resolution is dismissed with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*, including the deadlines for applying for dispute resolution or for returning security deposits at the end of a tenancy.

Conclusion

The landlord's Application for Dispute Resolution 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 12, 2020

Residential Tenancy Branch