



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, MNSD

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on February 3, 2020, in which the Applicant sought monetary compensation from the Respondent.

Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me.

Service of the Application, Notice of Hearing and Evidence

At the outset of the hearing the Respondent stated that he did not receive notice of this hearing, the Application nor any evidence to support the claim. He stated that he only knew about the hearing as he received an email from the Residential Tenancy Branch reminding him of the evidence deadline. He stated that he was unaware of the nature of the application.

The Applicant stated that he served the Respondent by registered mail. A copy of the registered mail receipt was provided in evidence and which confirmed the package was "refused"; the receipt also indicated the addressee did not live at the address to which the package was sent. This receipt provided the address to which the Applicant sent the hearing package. The Applicant stated that he obtained this address as he saw the Respondent's car parked outside the home.

The Respondent confirmed that his mother lives next door to the home the Applicant sent the registered mail package. He also confirmed he does not live at the address noted on the registered mail receipt such that he did not receive notice of the registered mail package.

I accept the Respondent's testimony that he does not reside at the address to which the hearing package was sent. Accordingly, I find the Respondent was not served with Notice of the hearing, the Applicant nor the evidence upon which the Applicant intended to rely. **As such, the Application is dismissed with leave to reapply.**

During the hearing the Respondent confirmed his mailing address as well as his email address; this information is included on the unpublished cover page of my Decision. Should the Applicant choose to reapply, he may use these addresses for service of his materials in accordance with the *Residential Tenancy Act*.

Jurisdiction

The Respondent also indicated that he owned the rental unit and claimed that he and the Applicant shared a kitchen. He submitted that the *Residential Tenancy Act* does not apply. The Applicant stated that although the Respondent had a room at the rental home, he never stayed there such that they did not really share a kitchen or bathroom. The parties were encouraged to review section 4 of the *Act* and to be prepared to address the issue of jurisdiction at any future applications.

Section 51 Compensation

In his Application the Applicant wrote that he received a notice to end tenancy from the landlord but did not receive monetary compensation. During the hearing before me, the Applicant confirmed that he did not receive a formal 2 Month Notice to End Tenancy for Landlord's Use, rather he received an email from the Respondent indicating the Respondent's mother would be moving into the rental unit. The Respondent stated that he did not issue a formal notice to end tenancy.

The parties were also encouraged to review sections 44, 49, 51 and 52 of the *Residential Tenancy Act* as they relate to any compensation claims advanced by the Applicant.

Security Deposit

Finally, the Applicant stated that although he provided his forwarding address to the Respondent in March of 2019, he was unable to provide in evidence a copy of the communication sent.

The parties are also encouraged to review sections 38 and 39 of the *Act* with respect to the Tenant's right to return of their security deposit

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 23, 2020

Residential Tenancy Branch