



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the landlord's application for dispute resolution made April 6, 2020, under the Residential Tenancy Act (Act). The landlord applied for:

- a monetary order for unpaid rent;
- authority to keep the tenant's security deposit to use against a monetary award and
- recovery of the filing fee.

The landlord attended; the tenant did not attend the telephone conference call hearing.

As the tenant was not present, the matter of service of the landlord's Application for Dispute Resolution, evidence, and Notice of Hearing (application package) to the tenant was considered.

In response to my inquiry, the landlord confirmed his application package was served to the tenant by registered mail sent to the rental unit address. The landlord's application itself indicated the tenancy ended on March 10, 2020 and the registered mail receipt showed a mailing of April 9, 2020.

After I informed the landlord mailing a package to an address where the tenant was no longer living at the time of the mailing was insufficient service.

The landlord then said he served the tenant by Facebook messenger and email.

The landlord failed to provide evidence to support service of the application package by either means. Additionally, there was no proof that the email address was routinely used between the parties to correspond about tenancy matters.

Analysis

Section 89(1) of the Act requires that the landlord's application for dispute resolution, which includes the notice of hearing, must be given by personally handing the documents to the tenant or by registered mail to the tenant's address where they reside or to their forwarding address.

Additionally, at the time of the landlord's application, the landlord was able to serve his application for dispute resolution by email; however, as mentioned, the landlord failed to provide proof that he had done so.

The landlord said the tenant was living at the rental unit at that time, yet that testimony contradicted the contents of his application.

For these reasons, I find the landlord submitted insufficient evidence that his application package was properly served to the tenant according to the requirements of section 89(1) of the Act or the Director's Order in effect at the time. I therefore dismiss the landlord's application, with leave to reapply.

As I did not proceed with the landlord's application, I decline to award him recovery of the filing fee.

I caution the landlord that he is not able to amend his monetary claim through evidence, and the increased monetary claim must be by way of an amended application, which is then served on the tenant. The respondent is entitled to know the claim against them.

Additionally, according to the Residential Tenancy Branch Rules of Procedure (Rules), all evidence available to the applicant **must** be served in one package and served to the respondent.

If evidence is not available to be served to the respondent in the application package, all other evidence **must** be served to the other party as soon as it becomes available. In all cases, the applicant's evidence **must** be served so that the respondent receives it no later than 14 days prior to the hearing.

Conclusion

The landlord's application was dismissed with leave to reapply, due to service issues as described above.

I make no findings on the merits of the matter. Liberty to reapply is not an extension of any applicable limitation period.

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: August 12, 2020

Residential Tenancy Branch