



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S**

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.

The landlord attended the hearing with an advocate, his mother, SB. The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:50 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.

Preliminary Issue – Service of Application for Dispute Resolution

The landlord testified that the rental unit is the basement unit in the single, detached house where he lives. The tenant lives below him. There is a single shared mailbox accessed by both units and the tenant has equal access to the mailbox where the mail for both units is delivered.

On May 6th, the landlord printed the Notice of Dispute Resolution Proceedings and went to the tenant's rental unit to deliver a copy of it to her. The tenant did not answer the door, so the landlord placed the Notice of Dispute Resolution Proceedings in the shared mailbox for the tenant. The landlord's mother, also present at this hearing, testified she witnessed the landlord place the Notice of Dispute Resolution Proceedings in the shared mailbox.

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]...*

Based on the landlord's testimony that the Application for Dispute Resolution Proceedings was served by placing it in a communal mailbox, I am not satisfied it was properly served in accordance with section 89(1) of the Residential Tenancy Act. Consequently, I dismiss this application with leave to reapply.

Conclusion

I dismiss the landlord's application 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.

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: September 03, 2020

Residential Tenancy Branch