



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL, FFL**

Introduction

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

- A monetary order for rent pursuant to section 67; and
- Authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants 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 tenants with the Notice of Dispute Resolution Proceedings package by registered mail. The landlord testified that the tenants did not provide him with any notice of forwarding address when the 'silently' moved out. The landlord obtained the tenants' current 'living address' when he hired a tracing company to locate them. According to the information provided to him by the tracing company, the tenants had moved to the address shown on the landlord's Application for Dispute Resolution Proceedings Package. The landlord did not provide a copy of the skip tracer's documents into evidence.

Preliminary Issue – service of the Application for Dispute Resolution Proceedings Package

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]...*

Although the landlord felt confident the address given to him by the tracing company is the address where the tenants reside; the landlord has not satisfied me this is the case. From the testimony of the landlord, I cannot determine how the tracing company came to the conclusion that the address as shown on the Application for Dispute Resolution is the current residential address of the tenants. Further, the address where the Application for Dispute Resolution was served was not provided to the landlord by the tenants. As such, I find the landlord has not complied with section 89 of the Act and served the Application for Dispute Resolution accordingly. Based on this finding, I dismiss the landlord's application with leave to reapply.

The landlord is at liberty to file an application seeking an order for substituted service in accordance with section 71 of the Act.

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 24, 2020