



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1019785 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDL-S, MNDCL-S, MNRL-S, FFL

Introduction

The landlord filed an Application for Dispute Resolution on June 26, 2020. They seek an order that the tenant pay compensation for: damage to the rental unit, unpaid rent, other money owed; and the Application filing fee. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on October 16, 2020. In the conference call hearing I explained the hearing process and provided the attending party the opportunity to ask questions.

In the hearing, the landlord gave evidence on the attempt they made to serve the tenant with the Notice of Dispute Resolution Proceeding (the “Notice”). The tenant did not attend the hearing.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the Notice to the tenant. This means the landlord must provide proof that the document has been served at a verified address allowed under Section 89 of the Act, and I must accept that evidence.

The landlord provided that the address they gave on the Notice here was that of the rental unit address. That is the address at which the tenant resided during the tenancy. They moved out on June 30, 2018. This is the last known address of the tenant, as stated by the landlord in the hearing. As proof of this service, they provided the registered mail tracking numbers. Though the mail was received at the tenant’s former address on July 3, the landlord stated this was done so in error by the tenants who now reside at that unit.

The landlord provided that they do not currently know where the tenant is residing; the tenant did not provide a forwarding address. The landlord also detailed all of the efforts they have made to locate the tenant through local networking. They messaged the tenant several times,

with no reply from the tenant, and blockage to messages. They applied for an order of substituted service in a hearing and that Application was dismissed.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for compensation for other money owed pursuant to section 67 of the *Act*?

Is the landlord entitled to reimbursement of the Application filing fee, pursuant to section 72 of the *Act*?

Analysis

Section 89(1) of the *Act* stipulates that 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 documents*].

I find the landlord has not fulfilled the service provisions under section 89 of the *Act*. I make this finding due to the past tenancy address of the tenant not being current. This is two years past the end of the tenancy.

The address to which the landlord sent the Notice and evidence is not, as per the *Act*, a forwarding address provided by the tenant, nor is it a verified address where the tenant resided at the time of service. Therefore, I find the documents were not served in a way recognized by the *Act*.

In this hearing the landlord inquired about the possibility of substituted service; however, the issue is *res judicata*. This is the rule of law which provides that a final decision is conclusive as to the rights of the parties and constitutes a bar to a subsequent application involving the same

claim. Additionally, the landlord asked for an extension of the timeline in which they may serve the tenant the Notice; however, there is no provision in the *Act* that permits an extension of this timeline in these circumstances.

Conclusion

For these reasons, I dismiss the landlord's application for compensation, 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 *Act*.

Dated: October 16, 2020

Residential Tenancy Branch