



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was scheduled to deal with a tenant's application for monetary compensation payable where a landlord does not use the rental unit for the purpose stated on the Two Month Notice to End Tenancy for Landlord's Use of Property, as provided under section 51(2) of the Act.

The tenant appeared for the hearing but there was no appearance on part of the landlord.

Since the landlord did not appear, I explored service of the hearing documents upon the landlord.

The tenant testified that she sent the hearing materials to the landlord via email on June 11, 2020. The tenant stated there was no response to her email from the landlord.

I ordered the tenant to provide proof of service by email after the teleconference call ended. I continued to hear from the tenant with the proviso that this decision would be conditional upon receiving sufficient proof of service.

After the teleconference call ended, the tenant uploaded a note informing me that she was mistaken in her testimony that she had notified the landlord of this proceeding via email and that she had actually sent the hearing documents to the landlord by way of regular mail.

Where a respondent does not appear at the scheduled hearing, the applicant bears the burden to prove the respondent was served in a manner that complies with the Act. A monetary claim must be served in a manner that complies with section 89(1) of the Act.

Section 89(1) provides that the Application for Dispute Resolution must be served upon the respondent either: by personal service upon the respondent; by registered mail sent to the respondent; or as ordered by the Director. The Director had authorized service by email from March 30, 2020 until June 24, 2020 due to the Covid-19 pandemic.

Regular mail is not a permissible method of service under section 89(1) of the Act. As such, I find the tenant did not sufficiently serve the landlord with notice of this proceeding. Therefore, I dismiss the tenant's Application for Dispute Resolution 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 *Residential Tenancy Act*.

Dated: October 13, 2020

Residential Tenancy Branch