



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

Introduction

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

- a monetary order for compensation for loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 9 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The hearing began at 1:30 p.m. with only me present. The landlord called in late at 1:32 p.m., indicating he was in a restaurant. The hearing ended at 1:39 p.m.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package by way of mail on June 9, 2020. The landlord did not confirm a Canada Post tracking number during the hearing.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

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 documents].

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service,** or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report.***

Accordingly, I find that the landlord did not serve the tenant with the landlord's application, as required by section 89 of the Act and Residential Tenancy Policy Guideline 12.

The landlord did not provide a Canada Post tracking number to confirm service of his application. He did not indicate whether he sent his application by registered mail. He did not indicate what address he sent the mail to. The tenant did not attend this hearing to confirm service.

I notified the landlord that his application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed him that he could file a new application and pay a new filing fee, if he wishes to pursue this matter further.

I informed the landlord that if he was serving again by registered mail, he would be required to provide documentary proof of the tenant's current residential or forwarding address, as well as proof of the registered mail as per Residential Tenancy Policy Guideline 12 above. The landlord confirmed his understanding of same.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed 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 02, 2020

Residential Tenancy Branch