



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction, Preliminary and Procedural Matters-

This hearing dealt with the tenants' application for dispute resolution under the Residential Tenancy Act (Act) made on July 1, 2020, for:

- compensation for a monetary loss or other money owed; and
- recovery of the filing fee.

The tenant, AS, attended the hearing; however, the landlord did not attend.

The tenant stated she served the landlord with their application for dispute resolution and Notice of Hearing by registered mail.

The tenant said she used the address of the former rental unit to send the registered mail as the landlord had served the tenants a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice), which listed as reason that the landlord or close family member intended to occupy the rental unit.

Additionally, the tenant said a neighbour of the landlord said that the rental unit was demolished and rebuilt. The tenant said that the neighbour has seen the landlord and family come in and out of the rental unit and that they moved in.

When asked, the tenant said the landlord must have collected the mail as it was not returned to her.

During the hearing, I then checked the tracking number provided by the tenant, and the Canada Post website indicates that the envelope was left at the front door.

Analysis and Conclusion

Section 89(1) of the Act requires that the application for dispute resolution, which includes the notice of hearing, must be given, by personally handing the documents to the respondent, by personally handing the documents to a landlord's agent, or by registered mail to the landlord's address where they reside or to an address at which the person carries on business as a landlord.

The Residential Tenancy Branch Rules of Procedure 3.5 states that at the hearing, the applicant must be prepared to demonstrate service to the satisfaction of the arbitrator.

In the case before me, I find that the applicant/tenant submitted insufficient evidence to show that the landlord lived at the address to which the applicants sent the registered mail. The tenancy ended on July 15, 2018, nearly two years after filing this dispute resolution application and the tenant did not claim to have any personal knowledge of the landlord's current address.

The tenant failed to have the neighbour attend the hearing to testify or provide an affidavit.

I therefore find the tenant did not provide sufficient evidence that the address to which she sent her registered mail was the current address of the landlord/respondent. As a result, I cannot find the tenant/applicant met her obligation to prove that she served the respondent/landlord their application for dispute resolution and notice of this hearing in a manner required by the Act.

Both parties have a right to a fair hearing and the landlord would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore dismiss the tenants' application.

Section 60(1) of the Act requires that an application for dispute resolution must be made within 2 years of the date the tenancy to which the matter relates ends.

As the tenant confirmed this tenancy ended on July 15, 2018, more than two years ago, the dismissal is without 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 26, 2020

Residential Tenancy Branch