



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing was held on November 26, 2020. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- permission to retain the security deposit to offset the rent he is owed; and,
- to recover the filing fee from the Tenant for the cost of this application.

The landlord attended the hearing and provided testimony. The tenant did not attend the hearing.

The Landlord stated that he sent a copy of the Application for Dispute Resolution along with supporting documentary evidence to the tenant by registered mail on August 26, 2020. However, the Landlord stated he was missing the unit number, so the package was returned. The Landlord resent the package to the full address on September 3, 2020. The Landlord stated that he sent it to where he believes the Tenant works.

More specifically, the Landlord stated that the Tenant moved out nearly a year ago, and it took him quite a while to locate the Tenant through Facebook. The Landlord noted that he saw a post from the Tenant, where he appeared to be affiliated with a glass repair shop in Calgary. The Landlord stated he sent the Notice of Hearing to the business address of the glass shop where he believes the Tenant works. The Landlord stated he does not know where the Tenant lives, and was never given a forwarding address by the Tenant.

I have considered the Landlords testimony and evidence on this matter. I note that serving an application package and a notice of hearing must be done in a certain manner, as set out in section 89 of the Act. Section 89 specifies the following:

Special rules for certain documents

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 there is insufficient evidence to show that the Tenant provided this particular address as their forwarding address. Further, given the address utilized by the Landlord for service is the Tenant's place of work, it is unlikely that the Tenant resides there. Ultimately, I find the Landlord has failed to serve the Tenant with his Notice of Hearing and application in accordance with section 89 of the Act.

I encourage the Landlord to utilize one of the approved methods of service, as laid out above. I note that serving documents in person can occur anywhere, but should this option be utilized, proof of service (witness or process server) may be required to prove service was affected appropriately. I find it important to note that registered mail may only be delivered in one of the manners laid out under section 89. Should the Landlord wish to serve the Tenants in an alternative manner to the options above, he should apply for an order for substituted service with the Residential Tenancy Branch.

Since the Landlord has failed to sufficiently serve his application, I dismiss his application, with leave to reapply.

Conclusion

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: November 26, 2020

Residential Tenancy Branch