



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0929195 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSDS-DR

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenant under the Residential Tenancy Act (the Act), by way of an *ex parte* Direct Request Proceeding. An Interim Decision was rendered on July 14, 2017, ordering that the Direct Request Proceeding be reconvened as a participatory hearing in accordance with section 74 of the Act. In the Application the Tenant sought:

- Recovery of the security deposit.

The hearing was convened by telephone conference call and was attended by the Tenant, and the Tenant's Advocate (the Advocate), both of whom provided affirmed testimony. Neither the Landlord nor an agent for the Landlord attended. The Tenant was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that the Respondent must be served with a copy of the Application and Notice of Hearing. As neither the Landlord nor an agent for the Landlord attended the hearing, I inquired about service of these documents as explained below.

The Tenant and the Advocate testified that the both the Notice of Dispute Resolution – Direct Request, and the Notice of Hearing for the participatory hearing were sent to the Landlord by registered mail and subsequently returned as unclaimed. A copy of the registered mail receipts, proof of the registered mail tracking numbers, photographs of the returned mail, and a Proof of Service document were submitted for my review. The Canada Post Website confirms that the registered mail was sent as described above and returned unclaimed. The Tenant and the Advocate stated that as the Landlord had never provided the Tenant with an address for service and the room rental agreement

listed only an email address and a phone number for contact, proof of ownership of the rental unit was obtained from the Land Title Registry and the Landlord was served with the above noted registered mail at the address listed as their mailing address on the Land Title Search.

Section 88 and 89 of the Act allow for service by mail or registered mail at the address at which a person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord. In reviewing the Land Title document, I note that the owner's mailing address appears to have been recorded on January 25, 1989, and during the hearing the Tenant could not provide any assurance that this is the current address for the Landlord.

Given the significant length of time that has lapsed since that address was registered with the Land Title Registry, the lack of assurance from the Tenant that this is the address where their landlord resides, the fact that this address is not listed as an address for service for the Landlord on the room rental agreement or the Shelter Information Form, and the registered mail sent to the Landlord at this address was never claimed, I find that I am not satisfied that the address used constitutes a valid address for service.

As the registered mail was returned as unclaimed, I am not satisfied that it was served in accordance with either section 88 or 89 of the Act. Further to this, I am not prepared to deem the registered mail received at this address as I am not satisfied that the address used constitutes a valid address for service under the Act as set out above.

The ability to know the case against you and to appear in your defense are fundamental to the dispute resolution process. As a result, I find that it would be a breach of both the Rules of Procedure and the principles of natural justice to accept the Tenant's Application for consideration in this hearing as I am not satisfied that the Landlord listed has been properly served with notice of the hearing and a copy of the Application and evidence before me for consideration by the Tenant, as required by the section 59(3) of the Act or rule 3.1 of the Rules of Procedure.

Additionally, I have concerns that the numbered corporation listed as the Landlord in the Application is not properly a landlord under the Act. The numbered corporation is not named anywhere in either the room rental agreement or the Shelter Information Form submitted by the Tenant, and there appears to be no contractual or other link between Tenant and the numbered corporation. Further to this, there appears to be no link between the numbered corporation listed as the Respondent and Landlord in the

Application and the landlord C.A. named in the room rental agreement and the Shelter Information Form, other than a notation by the Tenant in several etransfer receipts that rent payments sent to C.A. are for the numbered corporation.

As I am not satisfied that the Respondent listed in the Application was properly served or deemed served with the Application and Notice of Hearing as required by the Act and the Rules of Procedure, and I have concerns that the numbered corporation listed in the Application as the Respondent and Landlord is not in fact the Landlord, I therefore dismiss the Tenant's Application with leave to reapply. This is not an extension of any statutory time period.

At the request of the Tenant and the Advocate, copies of the decision will be emailed to them at the email addresses listed in the Application.

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 6, 2020

Residential Tenancy Branch