



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL-S

Introduction

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

- a monetary order for damage to the rental unit, pursuant to section 67; and
- authorization to retain the tenant's security deposit, pursuant to section 38.

The tenant did not attend this hearing, which lasted approximately 12 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 landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package by way of registered mail on September 19, 2020. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. He said that the mail was sent to a forwarding address provided by the tenant in an email on September 18, 2020. The landlord did not provide a copy of this email for 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 was unable to provide sufficient documentary proof of a forwarding address given by the tenant, or when he obtained this address. The landlord did not provide a copy of the email with the forwarding address from September 18, 2020. The landlord had ample time from filing this application on September 11, 2020, to the hearing date of December 29, 2020, to provide this email. The tenant did not attend this hearing to confirm service.

I notified the landlord that his application was dismissed with leave to reapply. 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 him that if he was serving again by registered mail, he would be required to provide documentary proof of the tenant's valid and current forwarding or residential address. The landlord confirmed his understanding of same.

I notified the landlord that he could obtain legal advice from a lawyer, regarding service, the *Act*, the security deposit, limitation dates and any other information he required. The landlord confirmed his understanding of same.

Conclusion

The landlord's entire 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: December 29, 2020

Residential Tenancy Branch