



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SATGUR HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, FFL

Introduction

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

- a monetary order for unpaid rent, 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 6 minutes. The landlord's two agents, "landlord PG" and "landlord LM," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Landlord PG confirmed that he had permission to represent the landlord company named in this application, as an agent. Landlord LM stated that he was the agent for the landlord owner.

Landlord LM testified that the tenant was served with the landlord's application for dispute resolution hearing package by way of registered mail on October 6, 2020. When I notified landlord LM that the Canada Post tracking report on file indicated the landlord's mail was sent on October 7, 2020, he confirmed that the correct date was October 7, 2020.

The landlord provided a Canada Post receipt and tracking report with this application. Landlord LM confirmed the Canada Post tracking number verbally during the hearing. He said that the mail was sent to a forwarding address provided by the tenant in a note, that he had in front of him during the hearing. He confirmed that he did not provide a copy of this note for the hearing because he had never been asked to before.

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 the landlord obtained this address. The landlord did not provide a copy of the note with the forwarding address. The landlord had ample time from filing this application on October 3, 2020, to the hearing date of January 22, 2021, to provide this note. The tenant did not attend this hearing to confirm service.

I notified the landlord's agents that the landlord's application was dismissed with leave to reapply, except for the filing fee. I informed them that the landlord could file a new application and pay a new filing fee, if the landlord wished to pursue this matter further. Landlord LM confirmed his understanding of same.

The landlord is cautioned to provide documentary proof of the tenant's valid and current forwarding or residential address if a future application is served by registered mail to the tenant.

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: January 22, 2021

Residential Tenancy Branch