



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 10 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that his friend was present for moral support, but he did not testify at this hearing.

The tenant testified that the landlord was served with the tenant's application for dispute resolution hearing package by way of mail. The tenant said that he did not know the date of service. He claimed that the mail was returned to him as "no such address." The tenant stated that he did not know where the landlord was located. In his application, the tenant indicated that he could not reach the landlord by telephone. The tenant did not provide a Canada Post tracking number during the hearing. The tenant provided a Canada Post receipt for buying a stamp for \$1.12 including tax, there was no tracking number on the receipt, and the tenant provided a photograph of an envelope with two stamps on it, which was returned to sender.

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 tenant did not serve the landlord with the tenant's application, as required by section 89 of the *Act* and Residential Tenancy Policy Guideline 12.

The tenant did not provide a Canada Post tracking number to confirm service of his application by registered mail. The tenant did not have confirmation of sending his application by registered mail, as there was no receipt indicating a signature was required, there was no tracking number on the Canada Post receipt, and the tenant provided an envelope with two regular mail stamps on it. Regular mail is not permitted by section 89 of the *Act*, only registered mail is allowed. The mail was returned to the tenant as "no such address." The landlord did not attend this hearing to confirm service.

I notified the tenant that his application was dismissed with leave to reapply, except for the \$100.00 filing fee. 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 the tenant that if he was serving again by registered mail, he would be required to provide documentary proof of the landlord's current residential address or an address where the landlord carries on business, as well as proof of the registered mail as per Residential Tenancy Policy Guideline 12 above. The tenant confirmed his understanding of same.

I also notified the tenant to determine whether he had a valid legal claim against the landlord, as per the *Act*. The tenant confirmed that he filed this application requesting a monetary order for \$2,975.00 because the landlord pursued collections against him for \$2,975.00 and he did not agree with it. The tenant confirmed his understanding of same.

Conclusion

The tenant's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the tenant'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 19, 2021

Residential Tenancy Branch