



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNDL-S, MNRL-S, FFL**

Introduction

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

- a monetary award pursuant to section 67 of the *Act*;
- a return of the filing fee pursuant to section 72 of the *Act*.

The landlord and the tenant's former counsel, D.M. attended the hearing. At the outset of the hearing the landlord explained he had sent two copies of his application for dispute to the former office of D.M. on January 8, 2021 and July 6, 2020. D.M. stated he no longer represented the tenant but had previously assisted her in a different civil matter involving the landlord. Further, D.M. said he was no longer in occupation of the office where the Application for Dispute and evidentiary packages had been sent.

Analysis

Sections 88 & 89 of the *Act* states the ways that a landlord can serve a tenant. The following sections apply to the case at hand:

- 88** All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways
- (a) by leaving a copy with the person;
 - (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides
 - (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
 - (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
 - (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides

- (g)by attaching a copy to a door or other conspicuous place at the address at which the person resides
- (h)by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i)as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j)by any other means of service prescribed in the regulations.

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;
- (c)by sending a copy by registered mail to the address at which the person resides
- (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*].

By the landlord's own acknowledgement, the landlord failed to serve the documents associated with this dispute as required by section 88 & 89 of the *Act*. Service to the tenant's former counsel does not meet the requirements as outlined above. For these reasons, the landlord's application is dismissed with leave to reapply. The landlord must bear the cost of his own filing fee.

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: January 21, 2021

Residential Tenancy Branch