



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

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

- A monetary order for damages or compensation and authorization to retain a security deposit pursuant to sections 38 and 67;
- A monetary Order for Damages and authorization to retain a security deposit pursuant to sections 38 and 67;
- A monetary order for rent and/or utilities and authorization to retain a security deposit pursuant to sections 38 and 67; and
- Authorization to recover the filing fees from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open throughout this hearing which commenced at 1:30 p.m. and concluded at approximately 1:50 p.m.

The landlords attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlords and I were the only ones who had called into this teleconference.

Preliminary Issue – Service of Notice of Hearing/Application for Dispute Resolution Proceedings

The landlords testified that they served the tenant with the Notice of Dispute Resolution Proceedings package by mailing it by registered mail to the tenant's place of business. The tracking number for the mailing is recorded on the cover page of this decision. The landlords testified that they did not send the Notice of Dispute Resolution Proceedings package to the tenant's residential address because they do not currently know where the tenant lives.

The landlords testified that they also sent the Notice of Dispute Resolution Proceedings package to a person who once acted as the tenant's agent, although that person is not named on the tenancy agreement and that person is not named on this Application for Dispute Resolution Proceedings Package as a tenant.

Analysis

An application for dispute resolution is a document referred to in section 89 of the *Act*, requiring special rules regarding service. Section 89(1) reads:

An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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*].

In this case, the named tenant was not personally served, nor was she served by registered mail to the address at which she resides. The landlord likewise did not have an order from the director to serve the tenant by mailing it to the person who once acted as the tenant's agent. The landlord has not served the application for dispute resolution proceedings in accordance with 89(1). Consequently, I dismiss this application with leave to reapply.

Conclusion

The 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: February 19, 2021

Residential Tenancy Branch