



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Len Boyko Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL, MNRL, MNDL, MNDCL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on December 4, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent;
- a monetary order for damage, compensation, or loss; and
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30pm on March 26, 2021 as a teleconference hearing. Only the Landlord's Agents G.C. and C.L. attended at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlords' Agents and I were the only persons who had called into this teleconference.

The Landlord's Agents testified the Application and documentary evidence package was served to the Tenant by registered mail to a Post Office Box which was listed on a box found in the rental unit at the end of the tenancy. The Landlord's Agents stated that the Tenant abandoned the rental unit on October 28, 2020 and has not yet provided the Landlord with a forwarding address. The Landlord's Agents stated that the Registered Mail sent to the Tenant was not delivered and has since been returned to the Landlord.

Section 89(1) of the *Act* stipulates: 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*].

According to the Residential Tenancy Policy Guideline 14 (the "Policy Guidelines"); an application for substituted service may be made at the time of filing the application for dispute resolution or at a time after filing. The party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and
- that there is a reasonable expectation that the party being served will receive the documents by the method requested.

As the Tenant did not appear at the time of the hearing, and the Landlord's Agents stated that the Application package and documentary evidence package was sent to a Post Office Box which was not provided to the Landlord by the Tenant, I am not satisfied that the Tenant was properly served with the Application for Dispute Resolution or Notice of Hearing. As a result, this Application is dismissed with leave to reapply. This does not extend any time limits set out in the Act.

Conclusion

The Landlord did not serve the Tenant with the Application and documentary evidence package to the address at which the Tenant resides. As such, 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: March 26, 2021

Residential Tenancy Branch