



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for a monetary order for unpaid rent and damages to the rental unit, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Both parties appeared. At the outset of the hearing the tenant stated that they were not served with the landlords' Application for Dispute Resolution and the Notice of Hearing. The tenant stated that they found an automated email from the Residential Tenancy Branch (the "RTB") reminding them of today's hearing. The tenant stated that they contacted the RTB and was provided with the telephone information to call into the hearing.

The landlord stated that the tenants did not provide them with a forwarding address. The landlord stated that they sent the Application for Dispute Resolution and the Notice of Hearing in "care of" the native band office.

Special rules for certain documents

89 (1)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*];
- (f)by any other means of service provided for in the regulations.

In this case, I am not satisfied that the tenants were properly served in accordance with section 89 of the Act. The landlords sent the packages care of a First Nation Office, I find that service was inappropriate as this office is a third party and have no obligation under the Act, to find or serve the landlord's package on the tenants. This was not where the tenants resided and was not a forwarding address provided by the tenants. While I accept the landlords did not have the tenant's forwarding address they still cannot avoid the provisions of the Act. Therefore, I find I must dismiss the landlords' application due to lack of service, with leave to reapply.

At the hearing the tenant provided the landlord with their forwarding address. I have noted that address on the covering page of this decision.

The female tenant indicate that the male tenant had passed away in December 2020.

Conclusion

The landlords did not serve their application in compliance with section 89 of the Act. The landlords' 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 23, 2021

Residential Tenancy Branch