



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Real Property Management Central and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNR-S, MNDC-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent;
- compensation for a monetary loss or other money owed;
- authority to keep the tenant's security deposit to use against a monetary award; and
- to recover the cost of the filing fee.

The landlord's agent attended; the tenant did not attend the telephone conference call hearing. As a result, service of the landlord's Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

In response to my inquiry, the landlord's agent confirmed that they originally applied for an order for substituted service on the tenant in a manner different than what is required under section 89 of the Act. That application was dismissed by the Residential Tenancy Branch (RTB) in a Decision of December 23, 2020.

At the hearing, the agent said that they had sent in another application for an order for substituted service on the tenant in a manner different than what is required under section 89 of the Act, which contained further evidence regarding the ability to serve the tenant by email. The agent said she sent their second application in January 2021, using the email address for service of documents to the RTB.

I informed the agent that their second application for substituted service was not shown to have been filed and it was not before me.

The agent also confirmed not serving the tenant their application package by email, as they did not have the authority from the RTB to do so yet.

Analysis and Conclusion

Section 59(3) of the Act requires that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Section 89(1) of the Act requires that an application for dispute resolution, which includes the notice of hearing, must be given by handing the documents to the person or by registered mail to the address at which the person resides, or by registered mail to a forwarding address provided by the tenant.

Under section 71(1), the director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

In the case before me, the landlord confirmed they have not attempted to serve the tenant with their application package, although the agent said they made a second application to serve the tenant under section 71(1), as they do not have a forwarding address for the tenant.

As the tenant has not been served the landlord's application or notice of hearing, I could not consider the landlord's application at this hearing.

I therefore dismiss the landlord's application, **with leave to reapply**.

As I have not considered the merits of the landlord's application, I dismiss their request to recover the cost of the filing fee, without leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

I have not ordered the landlord to return the tenant's security deposit, as they failed to provide a written forwarding address to the landlord.

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: May 3, 2021

Residential Tenancy Branch