



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, MNDCL, FFL

Introduction

The landlord filed an Application for Dispute Resolution on January 29, 2021. They seek an order that the tenant pay compensation for unpaid rent and the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 1, 2021. In the conference call hearing I explained the hearing process and provided the attending party the opportunity to ask questions.

In the hearing, the landlord gave evidence on the attempt they made to serve the tenant with the Notice of Dispute Resolution Proceeding (the “Notice”). The tenant did not attend the hearing.

Preliminary Matter

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the Notice to the tenant. This means the landlord must provide proof that the document has been served at a verified address allowed under s. 89 of the Act, and I must accept that evidence.

In the hearing, the landlord provided that they gave the Notice to a person who was purportedly the employer of the tenant, on February 5, 2021. They included their prepared evidence for this hearing with that document. That individual then stated to the landlord they would forward this package to the tenant. At that time the tenant was in a different city. The landlord stated “the employer knew who [the landlord] was talking about . . .”

The landlord described how there was an abrupt end to the tenancy and the tenant did not provide a forwarding address when they moved out of the unit. They received no communication from the tenant after handing the Notice and evidence to the tenant's employer. They previously applied for an order of substituted service in a direct request process and that Application was dismissed.

The *Act* s. 89(1) (as amended on March 1, 2021) stipulates that 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 s.71 (1) [*director's orders: delivery and service of documents*];
- (f) by any other means of service provided for in the regulations.

I find the landlord has not fulfilled the service provisions under s.89 of the *Act*. I make this finding due to the delivery method of the hearing package (including, most importantly, the Notice) being very indirect. This involved a third party, and delivery to the tenant in a different city. This is also approximately five months after the tenancy ended. I find the documents were not served in a way recognized by the *Act* or the *Residential Tenancy Regulation* s. 43.

For this reason, I dismiss the landlord's Application, with leave to reapply. The landlord may reapply for compensation. I give notice to the landlord of recent changes in service provisions enacted in March 2021. These are reflected in the comprehensive *Residential Tenancy Policy Guideline #12* available online.

Conclusion

For these reasons, I dismiss the landlord's application for compensation, with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: June 2, 2021

Residential Tenancy Branch