



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PRIMA PROPERTIES (118) LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNRL-S MNDCL-S FFL SS

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) an order Substituted Service, for a monetary claim of \$11,108.44 for unpaid rent or utilities, for compensation for damage or loss under the Act, regulation or tenancy agreement, to retain the security deposit and/or pet damage deposit(s) towards any amount owing, and for the filing fee.

An agent for the landlord, SG (agent) attended the teleconference hearing held on this date, July 13, 2021 at 1:30 p.m. Pacific Standard Time. The tenant did not attend the hearing. The agent confirmed they were unable to serve the tenant with the application and as a result, I have considered the landlord's application for Substituted Service (Sub Service Application) below.

Preliminary and Procedural Matters

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The agent was also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the agent was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The agent had no questions about my direction pursuant to RTB Rule 6.11.

In addition, the agent confirmed the email address at the outset of the hearing and stated that they understood that the decision would be emailed to them.

I will now address the Sub Service Application. The agent applied for an order allowing the landlord to serve the respondent tenant with the Notice of Hearing documents in a manner other than permitted by section 89 of the Act.

The agent confirmed during the hearing that the tenant has not provided a written forwarding address since vacating the rental unit on January 31, 2021. In addition, the agent confirmed that an email sent “gets bounced back as no address exists.”

Section 12 of the Residential Tenancy Branch Police Guideline – Service Provisions, indicates that in relation to Orders for Substituted Service, the applicant must be able to demonstrate two things:

- 1. That the party to be served cannot be served by any of the methods permitted under the Legislation, and**
- 2. That there is a reasonable expectation that the party being served will receive the documents in that way.**

[emphasis added]

Based on the evidence provided by the agent, I find that the landlord has provided insufficient evidence to support that the tenant will receive the documents by serving the tenant via email as I find the email address is no longer valid or active.

The landlord is at liberty to make a future request for substituted service in order to provide additional evidence that substituted service will likely result in the tenant being served.

Both parties have the right to a fair hearing. The tenant would not be aware of the hearing without having received the Notice of a Dispute Resolution Proceeding and application. Therefore, **I dismiss** the landlord’s application **with leave to reapply** as I am not satisfied that the tenant has been sufficiently served with the Notice of Hearing and application in a manner provided for under the Act. I note this decision does not extend any applicable time limits under the Act.

I do not grant the filing fee as a result of the service issue.

Conclusion

The landlord’s application is dismissed with leave to reapply due to a service issue. This decision does not extend any applicable time limits under the Act.

The filing fee is not granted due to a service issue.

This decision will be emailed to the landlord and sent by regular mail to the tenant, as the landlord does not have an active or valid email address for the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 13, 2021

Residential Tenancy Branch