



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FFT, MNDCT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- return of security deposit pursuant to section 38;
- compensation for my monetary loss or other money owed pursuant to section 7 and 67; and
- an authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing. Each participant affirmed they would provide truthful information during the hearing and confirmed they understand the Rules of Procedure prohibit recording of the hearing.

The landlord stated he did not have any information about the tenant's claims and became aware of the hearing because of an email message from the Residential Tenancy Branch.

Preliminary issue to be decided

- Was the respondent notified of the tenant's application for dispute resolution (application) pursuant to the Act?

Background and evidence

In her evidence the tenant included proof that she sent her application to the landlord by registered mail and the mail was returned to her unclaimed. The landlord provided evidence of a tenancy agreement with the tenant listing the dispute address and it records an address for service that is not the same as the address the tenant used to

send the application. The tenant agreed she did not use the landlord's address for service as recorded on the tenancy agreement. The tenant stated she knew the landlord lived at the address she used. The landlord stated that at the time the tenancy ended he was not receiving mail at the address the tenant used. The landlord stated this address can now be used by the tenant. I asked the tenant to provide her forwarding address so I could record it in this decision.

Analysis

Section 89 of the Act provides for the methods by which a tenant may give a landlord their application for dispute resolution. When a tenant uses registered mail, the address is where the landlord carries on business as a landlord:

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.

The Act does not provide for service of an application by registered mail to a landlord's residence. The tenancy agreement provides an address for the landlord in a different city and it is evident from the tenant's evidence and the landlord's testimony that the landlord did not receive the application and is unaware of the nature of the tenant's claims.

Conclusion

The tenant's application is dismissed with leave to reapply.

The landlord's address for receiving the tenant's application is recorded on the front page of this decision.

The tenant's forwarding address is also recorded on the front page of this decision.

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: August 27, 2021

Residential Tenancy Branch