



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL, FFL

Introduction

The Landlords apply for monetary compensation pursuant to s. 67 of the *Residential Tenancy Act* (the “Act”) and for return of their filing fee under s. 72.

Z.C. appeared as Landlord. The Tenant did not attend, nor did someone attend on their behalf.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenant did not attend, the hearing was conducted in their absence as permitted by Rule 7.3 of the Rules of Procedure.

The Landlord affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The Landlord confirmed that he was not recording the hearing.

Preliminary Issue – Service of the Landlord’s Application

At the outset of the hearing, the Landlord indicated that he sent the application materials to the Tenant’s forwarding address by way of registered mail sent on November 6, 2021. The hearing commenced on that basis.

However, near to the conclusion of the hearing, the Landlord clarified his evidence and indicated that the application materials were sent to the mailing address provided by the Tenant when he applied for the rental unit at the commencement of the tenancy. The Landlord further indicated that the Tenant did not provide a forwarding address after vacating the rental unit. I do not believe the Landlord was attempting to deceive me and appeared to misunderstand what I meant by forwarding address when I asked him at

the outset of the hearing when I attempted to confirm the application materials were served.

Pursuant to Rule 3.5 of the Rules of Procedure, applicants must demonstrate that each respondent was served with the application materials. The Landlord indicates that the application materials were served on the Tenant's prior mailing address was unable to demonstrate that materials were sent to the Tenant's current forwarding address as none was provided. The Landlord did not apply for an order for substitutional service nor made submissions on this point during the hearing. I find that the Landlord failed to serve the Tenant with the application materials as service to the Tenant's previous mailing address is not proper service as the Tenant no longer resides at that mailing address.

Policy Guideline #12 is clear that when an application has not been served, the matter may be adjourned or dismissed with or without leave to reapply. Given the course of events, I dismiss the Landlord's application with leave to reapply. However, the Landlord's application under s. 72 of the *Act* for the return of his filing fee is dismissed without leave to reapply as the Landlord failed to properly serve the respondent Tenant. I make no findings of fact or law with respect to the submissions that were made by the Landlord on the substantive aspects of his application.

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 30, 2022

Residential Tenancy Branch