



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act"), for:

- a monetary order for unpaid rent and for compensation under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 19 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 1:30 p.m. and ended at 1:49 p.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord confirmed his name and spelling. He stated that he owns the rental unit. He confirmed the rental unit address. He provided his email address for me to send this decision to him after the hearing.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("*Rules*") does not permit recording of this hearing by any party. At the outset of this hearing, the landlord affirmed, under oath, that he would not record this hearing.

I explained the hearing process to the landlord. I informed him that I could not provide legal advice to him. He had an opportunity to ask questions, which I answered. He did not make any adjournment or accommodation requests.

Preliminary Issue – Service of Landlord's Application

During this hearing, I provided the landlord with ample and additional time to look up service information, since he requested same.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package, by way of registered mail, on January 13, 2022. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during this hearing. He said that the mail was not returned to him, so the tenant received it. He claimed that he also sent his application to the tenant by email, but she did not respond to it. He stated that he did not provide a copy of the email for this hearing.

The landlord stated the following facts. The tenant did not provide a forwarding address to him. The tenant has not had any contact with him and has not paid him any money. He obtained the tenant's residential address from a friend, who is a realtor. He knows the tenant lives at the above address because he went there and knocked on her door. He knows the tenant's vehicle information. He did not provide a title search for the tenant's property. The tenant told the landlord that she was buying a house in August 2021, but she did not provide the address to him. The tenant moved out of the rental unit on October 31, 2021.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

89 (1) 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 section 71 (1) [director's orders: delivery and service of documents].

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

Proof of service by Registered Mail should include the original Canada Post Registered Mail receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report.

I find that the landlord did not serve the tenant with the landlord's application, as required by section 89 of the *Act*, Rule 3.1 of the *RTB Rules*, and Residential Tenancy Policy Guideline 12.

I find that the landlord failed to provide sufficient documentary proof of a residential address or a forwarding address provided by the tenant and when that address was given to the landlord. The tenant has not had any contact with the landlord, as per the landlord's testimony at this hearing. The tenant did not provide a forwarding address to the landlord, as per the landlord's testimony at this hearing. The landlord's registered mail receipt, submitted as evidence for this hearing, does not contain the tenant's full address, only a postal code.

I find that the landlord did not provide sufficient documentary proof of the tenant's residential address, which he claimed he received from his realtor friend. He did not provide the title search that he referenced during this hearing. He did not provide a date for when he claims to have knocked on the tenant's door and she was living at the above address.

The landlord did not provide the date or a copy of the email that he sent to the tenant serving his application. The tenant did not respond to the landlord's email, as per the landlord's testimony at this hearing. Therefore, I cannot confirm that the tenant was served by email or that the tenant provided her email address for service to the landlord, as required by section 89 of the *Act* and section 43 of the *Regulation*.

The landlord asked whether he could provide the title search and service email as evidence, after this hearing. I informed him that he could not provide evidence after this hearing, as the tenant would not have notice or a chance to respond to same. I notified him that he had ample time from filing this application on January 3, 2022, to this hearing date of August 11, 2022, a period of over 7 months, to provide the above evidence. The tenant did not attend this hearing to confirm service.

On a balance of probabilities and for the reasons stated above, I dismiss the landlord's application with leave to reapply, except for the \$100.00 filing fee.

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord's application is dismissed with leave to reapply.

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 11, 2022

Residential Tenancy Branch