



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TRIPLE S. AGGREGATES LTD.
and [Tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNRL-S, FFL

Introduction

The Landlord filed an Application for Dispute Resolution (the "Application") on February 18, 2022 seeking an order to recover the money for unpaid rent and compensation for damage. Additionally, the Landlord seeks to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the "Act") on October 11, 2022. In the conference call hearing, I explained the process and provided the attending party the opportunity to ask questions.

The Landlord attended the telephone conference all hearing; the Tenant did not attend.

Preliminary Matter – service to the Tenant

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding. 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 described how they met with the Tenant at the rental unit prior to the end of the tenancy; however, the Tenant did not respond to the Landlord's request for a final inspection meeting by the end of January. This means that the Landlord did not receive a proper forwarding address from the Tenant at the time the tenancy ended.

The Landlord undertook searches online on their own to determine the Tenant's own business address. They found a business profile that indicated the business was open

and operating, and this included a picture of the Tenant who is the owner of said business. In the hearing the Landlord described sending the Notice of Dispute Resolution Proceeding via registered mail on February 25, 2022.

The Landlord followed with service of other evidence they intended to rely on for this hearing on March 7 via registered mail to the same address.

The *Act* s. 89(1) 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 non-direct search of the Tenant's workplace address, with no proof that the Tenant would receive the material. I find the Notice was not served in a way recognized by the *Act* or the *Residential Tenancy Regulation* s. 43.

A party to a hearing may make an application for substituted service at the time of filing the application for dispute resolution, or at a time after filing. The party apply for substituted service must be able to show that the party to be served cannot be served under any of the methods permitted by the *Act* or the *Regulation*, and that there is a reasonable expectation that the party will receive the documents by the method requested. Typically, this involved a party's email, and email service is allowed under s. 43 of the *Residential Tenancy Regulation*.

For this reason, I dismiss the Landlord's Application, with leave to reapply. Service provisions, as a matter of policy, are set out 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. The Landlord was not successful in this Application; therefore, I grant no reimbursement of the filing fee.

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: October 11, 2022

Residential Tenancy Branch