



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GOYAL HOLDING CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR-S, MND-S, MNDC-S, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened as a result of the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent;
- compensation for alleged damage to the rental unit by the tenant;
- compensation for a monetary loss or other money owed;
- authority to keep the tenants' security deposit to use against a monetary award; and
- to recover the cost of the filing fee

Only the representative for the landlord (landlord) attended the teleconference hearing and was affirmed. The tenant did not attend the hearing. For this reason, service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The landlord testified that the tenant was served the application package by registered mail on April 25, 2022. The landlord filed the Canada Post receipt showing the tracking number in the hearing as proof of service. The landlord said that the package was returned to her 4 months later, showing "RTS".

When querying the landlord about the address used for service of their application package, the landlord said that the tenant did not have any communication with her when leaving and did not provide her a written forwarding address.

The Residential Tenancy Branch (RTB) digital file on the landlord's application showed the landlord called to the RTB on April 12, 2022, at which time she spoke with staff indicating she did not know the tenant's address to serve documents.

The landlord said that on April 15, 2022, the cleaners found a scribbled note in the window, which had an address. The landlord confirmed that the tenant did not sign or date the note, or indicate that this was the tenant's written forwarding address. The landlord said that there was nothing on the scribbled note other than an address.

The landlord confirmed that she did not keep the note and had no copy of it for filing into evidence.

Preliminary Issue –

The landlord's name on their application was the individual name for the representative attending the hearing. The landlord said that she was representing the actual landlord, and as a result, I have amended the landlord's application to show the company name. That name is shown on the cover page of this Decision.

Analysis and Conclusion

Section 59(3) of the Act requires that a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Section 89(1) of the Act requires that an application for dispute resolution, which includes the notice of hearing, must be given by handing the documents to the person or by registered mail to the address at which the person resides, or by registered mail to a forwarding address provided by the tenant. The landlord may also serve the tenant as ordered by the director under section 71 of the Act or by any other means of service provided for in the regulations.

In the case before me, the landlord confirmed that the tenant did not provide his written forwarding address to the landlord and that they used an unsigned and undated scribbled note with an address said to be found by the cleaner and nothing else written on it, to send the application package to the tenant.

I find this is insufficient evidence that the scribbled note with only an address was the tenant's written forwarding address or an address where he lived. For this reason, I find the landlord submitted insufficient evidence that they served the tenant their application for dispute resolution and notice of this hearing in a way required by the Act.

Both parties have a right to a fair hearing and the tenant would not be aware of the hearing without having been served the Notice of a Dispute Resolution Hearing and application as required by the Act.

I therefore dismiss the landlord's application, **with leave to reapply**.

As I have not considered the merits of the landlord's application, I dismiss their request to recover the cost of the filing fee, without leave to reapply.

Leave to reapply does not extend any applicable time limitation deadlines.

I have not ordered the landlord to return the tenant's security deposit, as I find there was insufficient evidence that the tenant provided a written forwarding address to the landlord.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 20, 2022

Residential Tenancy Branch