



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDL, MNDCL, FF

Introduction and Preliminary and Procedural Matters-

This hearing dealt with the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The landlord filed for compensation for alleged damage to the rental unit by the tenant, compensation for a monetary loss or other money owed, and recovery of the cost of the filing fee.

The landlord attended; the tenant did not attend the telephone conference call hearing. The landlord was affirmed prior to testimony.

In response to my inquiry, the landlord said he served the tenant his application for dispute resolution, evidence, and Notice of Hearing (application package) by ordinary mail using the rental unit address the tenant had vacated.

The landlord assumed the tenant had his mail forwarded, as the application package was never delivered to the rental unit address.

Analysis and Conclusion

Section 59(3) of the Act states 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, or within a different period specified by the director.

Section 89(1) of the Act indicates the ways in which an application for dispute resolution must be given:

- (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.

In the case before me, the landlord said that he served the application to the tenant by ordinary mail to an address the tenant was not living.

I therefore find the landlord submitted insufficient evidence that he served the tenant his application for dispute resolution and notice of this hearing in a manner required by the Act.

As a result of the insufficient evidence to prove service of the landlord's application, I therefore **dismiss** the landlord's application, **with leave to reapply**.

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

As I have not considered the merits of the landlord's application, I **dismiss** the request to recover the cost of the filing fee, without 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*. 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: February 07, 2023

Residential Tenancy Branch