



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kekinow Native Housing
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC

Introduction

This hearing was convened in response to an application filed by the tenant who is seeking more time to make an application to cancel a Notice to End Tenancy, and, if successful in her application for more time, the tenant is also seeking to cancel a Notice to End Tenancy given for cause.

Both parties appeared at the hearing and gave evidence under oath.

The tenant submitted that while she became aware that the landlord was attempting to end this tenancy and she filed an application seeking to dispute this as soon as she was aware, she has not been served with the Notice to End Tenancy. The tenant states that all she has seen is a letter that was given to someone else and shown to her.

The landlords submits that a proper form of Notice to End Tenancy was served on April 19, 2013 to a man who is known to be the tenant's brother and who was at her home at the time of service. The landlord agrees that this man does not live in the rental unit.

With respect to service of documents including Notices to End Tenancy, the *Residential Tenancy Act* provides as follows:

88 All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mail box or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service prescribed in the regulations.

Although the landlord has testified that he served the tenant by way of serving an adult person at the rental unit, the tenant says she was not served with the Notice and the landlord has also testified that the adult person at the rental unit does not reside there with the tenant. Based on this testimony I find that the tenant has not been duly served as required by the Act.

The Notice to End Tenancy which is the subject of this application is therefore set aside with the effect that this tenancy shall continue as though no notice had been served.

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: May 27, 2013

