



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, MNDC, MNSD, FF

Introduction

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

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 13 minutes. The landlord and his agent (collectively "landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Landlord's Application

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package on January 6, 2016 by way of registered mail to the rental unit address. The landlord provided a photocopy of the envelope. The landlord stated that the Canada Post worker advised him that he was aware that the tenant had moved and promised to forward the tenant's mail to her new address. The landlord said that he was aware that the tenant had vacated the rental unit by December 31, 2015, but that she had not given a forwarding address to the landlord.

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

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;...

*(c) by sending a copy by registered mail to the **address at which the person resides**...;*

*(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].

I find that the landlord has failed to sufficiently demonstrate that the tenant was served with the landlord's application in accordance with section 89(1) of the *Act*. The tenant did not attend this hearing. The landlord was aware that the tenant had already moved out of the rental unit when he mailed the application to her at the rental unit. The landlord did not receive a forwarding address from the tenant after she vacated the rental unit. Accordingly, I find that the tenant was not served with the landlord's application in accordance with section 89(1) of the *Act*.

At the hearing, I advised the landlord that I was dismissing his entire application with leave to reapply, except for the recovery of the filing fee. I notified the landlord that he would be required to file a new application and pay a new filing fee if he wished to pursue orders against the tenant. I also told the landlord that he would be required to prove service, including documentary or witness evidence where possible, at the next hearing. I notified the landlord that he could apply for an order for substituted service under section 71 of the *Act* to serve the tenant by another method outside of section 89 of the *Act*, if required, but that proof of service attempts was required. I notified the landlord that he could consult with an information officer at the Residential Tenancy Branch, if he required more information.

Conclusion

The landlord's application to recover the \$50.00 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, 2016

Residential Tenancy Branch