



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OAK WEST REALTY LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes SS

Introduction

This hearing dealt with an ex parte application by the landlord for an order for substituted service pursuant to section 71(1) of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an order for substituted service of their application for dispute resolution in a manner different than what is required under section 89 of the *Act*?

Background and Evidence

The landlord entered into a tenancy with the tenant and the tenancy came to an end, with the landlord having received a Monetary Order and an Order of Possession for June 30, 2015, in a previous decision made by an arbitrator with the Residential Tenancy Branch. The landlord has stated in their application that, upon moving out of the dispute address, the tenant had not formally provided a forwarding address.

The landlord states that the landlord has attempted to serve the Monetary Order “by trying to reach the person on the phone (but he cahnged his number to remain elusive.)” [Reproduced as written]

The landlord has requested to serve the Monetary Order to the tenant’s parents’ address that was provided as the tenant’s address before the start of the tenancy.

Analysis

This application for the issuance of a substituted service order was made pursuant to section 71 of the *Act*. This section enables me to issue an order that a document may be served by substituted service in accordance with the order, despite the service provisions of sections 88 and 89 of the *Act*. Section 71(2) of the *Act* also enables me to make an order:

b) that a document has been sufficiently served for the purposes of this *Act* on a date the director specifies;

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this *Act*.

Residential Tenancy Guideline #12 deals with the service of documents. With respect to orders for substituted service, the Guideline states:

An application for substituted service may be made at the time of filing the application or at a time after filing. The party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and
- that the substituted service is likely to result in the party being served having actual knowledge of what is being served

Under section 88 of the *Act*, a landlord may serve a tenant with a Monetary Order by sending it by registered mail; however, the tenant has not formally provided any forwarding address.

I have reviewed all documentary evidence in the crossed files and I find that there is no evidence submitted by the landlord showing that the tenant provided their parents' address at the time of applying for tenancy or that this address remains an active address for service on the tenant. I find that the landlord has not conclusively demonstrated that the tenant would be able to receive the Monetary Order if sent by registered mail to the tenant's parents' address.

For the above reasons, the landlord's application for substituted service to serve the tenant the Monetary Order by way of registered mail to the tenant's parents' address is dismissed, with leave to reapply.

Conclusion

I dismiss the landlord's application for substituted service, 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: January 25, 2017

Residential Tenancy Branch