



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RPP

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution (the Application) pursuant to the *Residential Tenancy Act* ("the Act") for:

- an order requiring the landlord to return the tenant's personal property pursuant to section 65; and
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

The landlord did not attend this hearing, although I waited until 11:12 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 11:00 a.m.

The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

Commencement of the hearing - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The tenant testified that they served the Tenant's Application for Dispute Resolution (the Application) to the landlord by way of registered mail on October 04, 2018. The tenant further testified that the tenancy was over two years ago and they sent the Application to the house where they were supposed to rent a room from the landlord. The tenant stated that they did not know if the landlord had ever lived there or even if they were in the country as they had heard from someone else that the landlord had fled.

Analysis

In this type of matter, the tenant must prove they served the landlord with the Application, with all the required inclusions as indicated on the Notice of Hearing

document, as per section 89 (1) of the *Act* which permit service by leaving a copy with the landlord or an agent of the landlord or “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.” The definition of registered mail is set out in section 1 of the *Act* as “any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.”

I find that the tenant served the landlord by way of registered mail but that they did not send it to the address where the landlord conducts business as a landlord and were not able to confirm that they sent it to the address at which the landlord resides.

For the above reasons I find that I am not able to confirm that the tenant served the landlord in accordance with section 89 of the *Act*.

Therefore, I dismiss the tenant’s application in its entirety, with leave to reapply.

I make no findings on the merits of the matter.

Leave to reapply is not an extension of any applicable limitation period.

Conclusion

The 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: November 27, 2018

Residential Tenancy Branch