



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on October 23, 2018 (the “Application”). The Landlord applied for compensation for damage to the unit and reimbursement for the filing fee.

The Representative appeared at the hearing for the Landlord. Nobody appeared at the hearing for the Tenant. I explained the hearing process to the Representative who did not have questions when asked. The Representative provided affirmed testimony.

The Landlord had submitted evidence prior to the hearing. The Tenant had not submitted evidence. I addressed service of the hearing package and Landlord’s evidence.

The Representative testified that the hearing package was sent by registered mail to an address obtained from the Tenant’s driver’s licence. The Representative could not provide a tracking number for this. No evidence of service was submitted.

The Representative testified that the tenancy started July 04, 2017. The Landlord had submitted a photo of the Tenant’s driver’s licence. It shows it was issued November 27, 2016. It is from a different province and the address on it is in a different province.

The Representative acknowledged that the address on the Tenant’s driver’s licence is an old address. He testified about the numerous ways in which the Landlord has tried to contact the Tenant. The Representative testified that the hearing package was also emailed to the Tenant but that the Tenant did not reply to the email.

Section 89(1) of the *Residential Tenancy Act* (the “*Act*”) sets out the permitted methods of service for a hearing package and requires the following:

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)...

Rule 3.5 of the Rules of Procedure states:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the Act and these Rules of Procedure.

I am not satisfied the address used by the Landlord is an address at which the Tenant resides. The address was obtained from the Tenant’s driver’s licence which was issued November 27, 2016, prior to the start of the tenancy. Presumably, the Tenant no longer resided at that address as of July 04, 2017, when he moved into the rental unit. Without some evidence that the Tenant moved back to his prior address, I am not satisfied the Tenant resides at this old address.

The hearing package was also sent by email; however, email is not a form of service permitted under the *Act*. Further, the Tenant did not reply to the email which would confirm he received the hearing package.

Nobody appeared at the hearing for the Tenant. The Tenant did not submit evidence for the hearing. There is no evidence before me indicating the Tenant received the hearing package.

In the circumstances, I am not satisfied the Tenant was served in accordance with section 89(1) of the *Act* or that the Tenant received the hearing package. I dismiss the Application with leave to re-apply. This does not extend any time limits set out in the *Act*.

Conclusion

I am not satisfied of service and therefore dismiss the Application with leave to re-apply. This does not extend any time limits set out in the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 19, 2019

Residential Tenancy Branch