



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

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

- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenants' security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants and the "female landlord" did not attend this hearing, which lasted approximately 14 minutes. The male landlord ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he had permission to represent the female landlord at this hearing (collectively "landlords").

The landlord testified that the tenants were served with the landlords' application for dispute resolution hearing package by way of registered mail. The landlords provided a Canada Post receipt and the landlord confirmed two tracking numbers verbally during the hearing. He said that the tenants signed for both packages, but he did not know the dates of service. He claimed that he sent both mail packages to separate addresses, provided by the tenants, in the move-out condition inspection report. The landlords did not provide a copy of this report.

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

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;

- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) **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;*
- (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].*

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service,** or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report.***

Accordingly, I find that the landlords did not properly serve the tenants with the landlords' application, as required by section 89 of the *Act* and Residential Tenancy Policy Guideline 12. The landlords were unable to provide dates of service. The landlords were unable to provide documentary proof of the forwarding addresses given by the tenants in the move-out condition inspection report. The tenants did not attend this hearing to confirm service.

I notified the landlord that the landlords' application was dismissed with leave to reapply, except for the \$100.00 filing fee. I informed him that the landlords would be required to file a new application and pay a new filing fee, if the landlords wished to pursue this matter further. I informed him that if he was serving again by registered mail, the landlords would be required to provide documentary proof of the tenants' valid addresses and the dates of service.

I informed the landlord that he could speak to an information officer at the Residential Tenancy Branch, for information only, not legal advice. I notified him that he would be required to submit evidence for any future hearing, as the evidence from this file would

not be transferred over to a future file. I informed him that he could file a claim for damages and losses other than unpaid rent, if he was intending to pursue this matter, as he had not done so in this application, but he had added these claims to his monetary order worksheet.

Conclusion

The landlords' application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlords' 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: April 27, 2020

Residential Tenancy Branch