



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDCT

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear an application regarding the above-noted tenancy. The tenant applied for:

- an order for the landlord to comply with the Act, the Residential Tenancy Regulation (the Regulation) and/or tenancy agreement, under section 62; and
- a monetary order for compensation for damage or loss under the Act, Residential Tenancy Regulation or tenancy agreement, pursuant to section 67.

Both parties attended the hearing. Landlord RN was represented by property manager GC. Landlord DS also attended. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant affirmed she served the Notice of Hearing and evidence in person to landlord DS and by regular mail to landlord RN. At a later point the tenant stated she served landlord RN by express post sent on November 05, 2020. The Notice of Hearing is dated November 09, 2020. The tenant was not able to provide the tracking number.

Landlord DS confirmed receipt of the Notice of Hearing on or around November 09, 2020 and that he forwarded some of the documents received to landlord RN.

Landlord RN stated she did not receive documents from the tenant and she only received some documents from landlord DS. At first Landlord RN affirmed she is not aware what this application is about. At a later point Landlord RN said she may be aware what this application is about.

Section 89(1) of the Act states:

An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, 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 Branch Policy Guideline 12 states:

All parties named on an application for dispute resolution must be served notice of proceedings, including any supporting documents submitted with the application. **Where more than one party is named on an application for dispute resolution, each party must be served separately. Failure to serve documents in a way recognized by the Legislation may result in the application being adjourned, dismissed with leave to reapply, or dismissed without leave to reapply.**
[emphasis added]

Because the testimony regarding the service of the Notice of Hearing was conflicting and the tracking number was not provided, I am not satisfied the Notice of Hearing was served to both respondents in accordance with the Act.

Rule of Procedure 3.13 states the applicant should submitted copies of the evidence to the Residential Tenancy Branch (RTB). I note the tenant did not submit copies of her evidence to the RTB.

Conclusion

I dismiss the tenant's application 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 27, 2021

Residential Tenancy Branch