



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PIONEER VILLA
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes SS

Introduction

An Application for Substituted Service was received from the tenant on February 7, 2014. In addition to written submissions made at the time of filing the Application for Substituted Service, an ex-parte hearing took place via telephone call on February 12, 2014.

This Application for Substituted Service pertains to service of hearing documents for a Tenant's Application for Dispute Resolution received on January 24, 2014 and set to be heard on March 12, 2014.

Issue(s) to be Decided

Has the tenant presented a basis for granting an order for substituted service?

Background and Evidence

The tenant submitted that a hearing package containing the Tenant's Application for Dispute Resolution, among other documents, was sent to the landlord via registered mail on January 24, 2014. The address used for the registered mail was the "Office" at the residential property. Canada Post returned the registered mail to the tenant indicating there was "no such address" and "recipient not located at address provided." As documentary evidence for this proceeding, the tenant provided a copy of the registered mail envelope that was returned to her and a print-out from Canada Post showing the tracking information.

The tenant has since determined where one of the landlords works and wishes to send the hearing package to the landlord via registered mail using that workplace.

The tenant stated that she does not have a written tenancy agreement but does have a card that indicates the landlord's service address is the office at the residential property which is why she originally sent the hearing package to that address. However, there is no longer a sign on the office and the tenant believes Canada Post could not locate the office in the building. Since the registered mail was returned to her several days later, the time period for serving the landlord in person had lapsed. Due to these circumstances, the tenant filed this Application for Substituted Service.

The tenant testified that rent cheques and other documents that a tenant may give to a landlord are placed in the mail slot at the office located in the residential property. The landlord, or his father, periodically check the mail slot and retrieve rent cheques or other documentation left in the mail slot by tenants.

Analysis

Section 89(2) of the Act provides that the tenant must serve the hearing package to the landlord either: in person; by registered mail at the landlord's address at which the landlord carries on business as a landlord; or as ordered under section 71(1) of the Act.

Upon consideration of the evidence before me, I am satisfied that the tenant has attempted to serve the landlord in a manner that complies with section 89(2) of the Act but that method was unsuccessful.

In considering a request for substituted service, I must consider whether there is a reasonable likelihood the recipient will receive the documents. Having heard the landlord typically and regularly retrieves rent cheques and/or other documentation from tenants at in the mail slot at the office located in the residential property I order the following:

The tenant is ORDERED to place a copy of the hearing documents in the MAIL SLOT at the LANDLORD'S OFFICE in the RESIDENTIAL PROPERTY no later than three days after receiving this decision.

Evidence may also be served using the mail slot in the office within the time limits for service evidence, as provided under the Rules of Procedure.

Documents left in the mail slot shall be deemed to be received three days after they are placed in the mail slot.

The tenant should be prepared to prove service occurred as ordered at the hearing of March 12, 2014.

Conclusion

The tenant has been ordered to serve the hearing package to the landlord by placing the documents in the mail slot at the landlord's office located in the residential property within three days of receiving this decision. Evidence may also be served by placing it in the mail slot. Documents placed in the mail slot shall be deemed to be received three days after they are placed in the mail slot.

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: February 12, 2014

Residential Tenancy Branch

