



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 844934

DECISION

Dispute Codes MND, MNDC, FF

Decision and reasons

This is an amended application filed by the landlord requesting a monetary order in the amount of \$3912.50, however, it is my finding that the applicants have not served the respondents with the application for dispute resolution in a method required under the Residential Tenancy Act.

Section 89 of the Residential Tenancy Act states:

89 (1) 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*].

In this case the applicants testified that they placed the documents in the tenant's mail box however that is not one of the methods listed above. The applicant stated that they did so because of the pending mail strike.

An order was issued that did allow service by courier during the mail strike (a copy that order is copied below), however that order did not allow service by placing the documents in the mailbox.

Dispute Resolution Services

*Residential Tenancy Branch
Office of Housing and Construction Standards*

*In matters of the Residential Tenancy Act, SBC 2002, c. 78, as amended or the
Manufactured Home Park Tenancy Act, SBC 2002, c. 77, as amended*

ORDER

*Pursuant to sections 71(2)(a), (b) and (c) of the Residential Tenancy Act and
sections 64(2)(a), (b) and (c) of the Manufactured Home Park Tenancy Act, I order
that:*

- ☐ *Until the resolution of the 2016 Canada Post labour disruption, any documents of the type described in section 88 of the Residential Tenancy Act or section 81 of the Manufactured Home Park Tenancy Act are sufficiently served for the purposes of Act if they are sent by courier;*
- ☐ *any documents of the type described in section 89(1) or 89(2) of the Residential Tenancy Act or section 82(1) or 82(2) of the Manufactured Home Park Tenancy Act are sufficiently served for the purposes of Act if the sender requests signature upon delivery and*
 - o the recipient of the documents signs a document provided by the courier which acknowledges receipt; or*
 - o the courier leaves a notice of attempted delivery in the mailbox or posted to the door; or*
 - o if the courier is not able to leave the notice of attempted delivery in the mailbox or posted to the door, the courier leaves the notice of attempted delivery in a conspicuous place and the sender provides proof that they have attempted to contact the recipient by telephone or email to inform the recipient of the attempted delivery; and*
- ☐ *any document sent by courier during this period is deemed to have been received on the actual date of delivery in cases where the recipient of the document signs a document acknowledging receipt, or on the 5th day after the document or the delivery attempt notice is sent, in any other case.*

Dated: June 29, 2016

J. Donald, A/Executive Director

In this case, the tenants testified that they did not find an amended application for dispute resolution in their mailbox, and therefore it is my finding that the applicants have

not met the burden of proving that the tenants have been served with the amended application for dispute resolution.

I am therefore unwilling to proceed with the hearing of this application and the application will be dismissed with leave to reapply.

Conclusion

This 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: July 20, 2016

Residential Tenancy Branch