



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET

Introduction

This hearing was convened in response to an application by the landlord pursuant to Section 56 of the *Residential Tenancy Act* (the Act) for an Order of Possession ending a tenancy early.

The landlord attended the conference call hearing. The tenant did not. The landlord testified they doubt the tenant still resides in their unit and that they may have abandoned the unit, as neither they nor any other occupant of the residential property has seen the tenant since July 02, 2016. The landlord surmised the tenant is incarcerated or is residing elsewhere. The landlord provided testimony they had served the Notice of Hearing package via Canada Post without requirement for delivery confirmation to the named tenant. The landlord provided a tracking number associated with ExpressPost. The landlord claims the tracking number indicates their mail was delivered on July 07, 2016 but that no signature of the named tenant was required. The landlord testified they did not employ any additional method to serve the landlord in accordance with the Act.

Section 89(2) of the Act states as follows in reference to this type of matter – **emphasis mine**

Special rules for certain documents

89 (2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a) by leaving a copy **with the tenant**;
- (b) by sending a copy by **registered mail** to the address at which the tenant resides;
- (c) by leaving a copy **at the tenant's residence with an adult** who apparently resides with the tenant;

(d) by **attaching a copy to a door or other conspicuous place** at the address at which the tenant resides;

(e) **as ordered** by the director under section 71 (1) [*director's orders: delivery and service of documents*].

Section 1, Definitions, in relevant part respecting service by mail states as follows.

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

I find that **Section 89** of the Act operates to provide credulity to the presumption of service when in accordance with the methods prescribed. I find the landlord's method of service inconclusive. I am not sufficiently satisfied the tenant has knowledge of the action against them. Moreover, I find the landlord's method of service is not in compliance with the Act. As a result I **dismiss** the landlord's application, *with leave to reapply*.

Conclusion

The landlord's 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 27, 2016

Residential Tenancy Branch

