



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, PSF, RP, O

Introduction

This hearing was convened by way of conference call concerning an amended application made by the tenants seeking a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order that the landlord comply with the *Act*, regulation or tenancy agreement; for an order that the landlord provide services or facilities required by the tenancy agreement or law; and for an order that the landlord make repairs to the unit, site or property.

The landlord and both tenants attended the hearing, and the tenants were accompanied by a Legal Advocate.

Prior to any testimony from either of the parties, a number of deficiencies were identified:

1. The name of the landlord on the Tenant's Application for Dispute Resolution is not the name of the landlord;
2. The tenants did not serve the landlord with the hearing package in accordance with the *Act* or the Rules of Procedure;
3. Evidence that the landlord intended to rely on was not provided to the Residential Tenancy Branch or to the tenants within the time required by the Rules of Procedure.

The parties had a lengthy discussion with respect to settling this dispute, but to no avail.

The tenants served the hearing package on the landlord by regular mail on December 3, 2016, then re-served the landlord by registered mail on December 8, 2016. The *Residential Tenancy Act* is clear (Underlining Added)::

Starting proceedings

59 (1) [Repealed 2006-35-83.]

- (2) An application for dispute resolution must
 - (a) be in the applicable approved form,

- (b) include full particulars of the dispute that is to be the subject of the dispute resolution proceedings, and
- (c) be accompanied by the fee prescribed in the regulations.
- (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.
- (4) The director may waive or reduce the fee if satisfied that
 - (a) the applicant cannot reasonably afford to pay the fee, or
 - (b) the circumstances do not warrant the fee being collected.
- (5) The director may refuse to accept an application for dispute resolution if
 - (a) in the director's opinion, the application does not disclose a dispute that may be determined under this Part,
 - (b) the applicant owes outstanding fees under this Act to the government, or
 - (c) the application does not comply with subsection (2).
- (6) An individual occupying a room in a residential hotel may make an application for dispute resolution, without notice to any other party, requesting an interim order that this Act applies to that living accommodation.

Special rules for certain documents

- 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*].

Section 59 provides for waiving the filing fee and for refusing to accept an application for dispute resolution in certain circumstances, but makes no similar provisions for failing to serve the hearing package by the date and in the manner required by the *Act*.

Therefore, since the tenants have not served the landlord in accordance with the *Act*, I dismiss the tenants' application with leave to reapply.

I have made no findings of fact or law with respect to the merits of this dispute.

Conclusion

For the reasons set out above, the tenants' application is hereby 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: January 06, 2017

Residential Tenancy Branch