



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL FF

Introduction:

The landlord and one tenant attended the hearing and gave sworn evidence. The Notice to End Tenancy is dated January 10, 2017 to be effective March 10, 2017 and the tenant confirmed it was served on him personally. The other tenant who was not present was served by putting it in the mailbox. I find this is legal service for a Notice to End Tenancy pursuant to section 88 of the Act. The effective date on the Notice is automatically corrected to March 14, 2017 for the upper unit tenant, C.B. and to March 30, 2017 for the lower unit tenant M.M pursuant to section 53 of the *Residential Tenancy Act* as a two month Notice to End Tenancy must give a full month's notice and according to section 49(2) end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement. The evidence is that C.B.'s rent is due on the 15th of the month and M.M.'s is due on the 1st of the month.

The landlord said the Applications for Dispute Resolution were served by putting them in the mailbox of each of the two tenants. I find this is not legal service of the Applications according to section 89 of the Act. Section 89 provides the Application must be served personally or by registered mail.

Analysis and Conclusion:

As discussed with the parties in the hearing, I find the tenants were not legally served with the Application/Notice of Hearing. Since this was a section 49 Notice to End Tenancy, I advised them concerning the provision for a free month's rent pursuant to sections 49 and 51. From the conversation, it appears there may be a dispute about the rent so I advise the landlord to claim for any unpaid rent if necessary on reapplication.

I dismiss the Application of the landlord due to insufficient service. I give him 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: May 17, 2017

Residential Tenancy Branch