



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OLC

Introduction

This hearing was convened in response to an application by the tenant for an Order pursuant to the *Residential Tenancy Act* (the Act).

The tenant attended the conference call hearing. The landlord did not. The tenant testified they attempted to serve the landlord by registered mail but their evidence is that the landlord did not provide the street name or number when texting the tenant therefore the registered mail was returned as undeliverable due to an incomplete address. The tenant did not attempt to clarify the address with the landlord despite their acknowledgement of having access to the landlord by phone, text and e-mail. The tenant claims they texted the landlord their documents, but did not provide evidence. They claim to have possibly e-mailed the landlord but did not provide evidence. They further claim to have verbally told the landlord in a phone call. The tenant stated they did not employ another method to serve the tenant.

Section 89 of the Act states as follows in reference to this type of matter.

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 71 referenced above states as follows in respect to an application for Substituted Service.

Director's orders: delivery and service of documents

71 (1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(a) that a document must be served in a manner the director considers necessary, despite sections 88 [*how to give or serve documents generally*] and 89 [*special rules for certain documents*];

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act.

Section 89 of the Act deliberately operates to lend credibility to the presumption of service if a party is served in accordance with the ways listed. I find the tenant's method of informing the landlord to be sufficiently inconclusive the landlord has been duly notified of the action against them, and therefore, unreliable. As a result, I am not satisfied the landlord has knowledge of this matter and of the tenant's claim. Therefore, I dismiss the tenant's application, but I do so, with leave to reapply. None of the potential merits of this application were heard.

Conclusion

The tenant'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: June 21, 2017

Residential Tenancy Branch