



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47; and
- recovery of the filing fees of this application from the landlords pursuant to section 72.

The landlords did not attend this hearing which lasted approximately 10 minutes. The tenant attended the hearing and, with assistance, was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant testified that she was served with a copy of the landlords' 1 Month Notice personally on June 1, 2017. The tenant said the tenant's application for dispute resolution dated June 7, 2017 was served on the landlord by registered mail on that date. The tenant said that she believes there is a tracking number for the application but was unable to provide one.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not are the landlords entitled to an Order of Possession?

Is the tenant entitled to recover the filing fee for this application from the landlords?

Analysis - Service

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

89(1) An application for dispute resolution,...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 document]...*

I find that in the absence of the respondent the testimony of the tenant that she believes that the application for dispute resolution was served by registered mail to be insufficient evidence to conclude that the application was served in accordance with section 89 of the *Act*. I am not satisfied that the landlords were properly served with the application for dispute resolution.

Conclusion

I dismiss the tenant's application 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: August 1, 2017

Residential Tenancy Branch