



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GURDEV HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

The tenants apply to cancel a one month Notice to End Tenancy dated January 16, 2018. The Notice alleges that there are an unreasonable number of occupants in the rental unit.

No representative of the landlord attended for the hearing within fifteen minutes after its scheduled start time.

The tenant Mr. T. testifies that he served the application on the landlord by giving it to a bartender working at an establishment owned by the landlord and also by sending it to the landlord by regular mail to the address given for the landlord in the written tenancy agreement.

I find that the tenants have failed to prove service of the application on the landlord. Section 89(1) of the *Residential Tenancy Act* (the “Act”) provides:

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*].

A person employed by a landlord as a bartender cannot be said to be an agent of the landlord.

Regular mail service does not meet the requirement of service by registered mail, which allows the tracking of an item and confirmation of receipt by signing.

As a result, the tenants' application must be dismissed with leave to reapply, subject to applicable time limitation periods, particularly s. 66(3) of the *Act*.

This decision was rendered orally at hearing and 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: March 27, 2018

Residential Tenancy Branch