



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CKL INVESTMENTS LIMITED
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRL-S, MNDL-S, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“*Act*”), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- a monetary order for unpaid rent and for damage to the rental unit, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The three tenants did not attend this hearing, which began at 12:00 p.m. and lasted approximately 17 minutes. The landlord’s agent (“landlord”) attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the building manager and caretaker for the landlord company named in this application and that she had permission to speak on its behalf at this hearing.

Preliminary Issue – Service of Landlord’s Application

The landlord testified that the tenants were each served with a separate copy of the landlord’s application for dispute resolution hearing package on November 15, 2017, by way of registered mail. The landlord provided three Canada Post receipts and tracking numbers with this application.

When I questioned the landlord as to what address the landlord’s application was sent to, she said it was an address which the tenants provided on August 15, 2016, at the beginning of their tenancy and was included in a tax document that was left when the tenants abandoned their rental unit in July 2017. She confirmed that she did not supply these documents containing this address to the Residential Tenancy Branch (“RTB”).

She stated that the address was not a residential address where the tenants were residing.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

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 documents].*

I find that the landlord was unable to show that the address where the landlord sent the application was a residential or forwarding address provided by the tenants. The landlord did not provide a copy of the documents with the address. The address was given to the landlord before the tenancy began in August 2016 and was not a current address as of November 2017, when the landlord sent out this application, since she said the tenants abandoned the unit in July 2017.

Accordingly, I find that the landlord failed to prove service in accordance with section 89(1) of the *Act* and the tenants were not served with the landlord's application.

At the hearing, I informed the landlord that I was dismissing the landlord's application with leave to reapply, except for the filing fee. I notified her that she would be required to file a new application and pay a new filing fee, if she wished to pursue this matter further. I cautioned her that she would have to prove service at the next hearing, including evidence of the tenants' forwarding or residential address.

While I was providing my decision to the landlord, she became upset, and began raising her voice and speaking at the same time as me. While I was speaking to the landlord and prior to asking her preferred contact method so that I could send her a copy of this decision, she unexpectedly disconnected from the hearing at 12:17 p.m. Therefore, I

was unable to confirm the landlord's contact information or the rental unit address. I ended the hearing after determining that the landlord had exited the call and had not called back into the hearing.

For the landlord's information, RTB Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*Proof of service by Registered Mail should include the original Canada Post Registered Mail **receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service**, or the landlord's place of conducting business as a landlord at the time of service as well as a **copy of the printed tracking report**.*

Conclusion

The landlord's application to recover the \$100.00 filing fee is dismissed without leave to reapply.

The remainder of the landlord'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 18, 2018

Residential Tenancy Branch