



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP
and [tenant name suppressed to protect privacy]

DECISION ON APPLICATION FOR SUBSTITUTED SERVICE

Dispute Codes SS

Introduction

This hearing dealt with an ex parte application by the landlord for an order for substituted service pursuant to section 71(1) of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an order for substituted service of their evidence related to a Dispute Resolution hearing, with respect to the file number cited in this decision, in a manner different than what is required under section 89 of the *Act*?

Background and Evidence

The landlord “CLP” (the landlord) seeks leave to be able to serve additional evidence to the tenant “RB” (the tenant) by way of email.

The landlord provided written submissions on their Application for Substituted Service. On their Application for Substituted Service, the landlord provides that the tenant vacated the rental unit after the tenancy had ended. The landlord further provides that they are unable to serve the evidence in a manner permitted under the *Act* as the tenant has not provided a forwarding address.

I have reviewed all written submissions and evidence before me; however, only the evidence and documents relevant to the issues and findings in this matter are described in this decision.

The landlord has submitted the following evidentiary material:

- An Application for Substituted Service

Analysis

This application for the issuance of a substituted service order was made pursuant to section 71 of the *Act*. This section enables me to issue an order that a document may be served by substituted service in accordance with the order, despite the service provision requirements of sections 88 and 89 of the *Act*. Section 71(2) of the *Act* also enables me to make an order:

(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.

Residential Tenancy Branch Policy Guideline 12 deals with the service of documents. Regarding substituted service, this guideline explains that:

An application for substituted service may be made at the time of filing the application or at a time after filing. The party applying for substituted service must be able to demonstrate two things:

- that the party to be served cannot be served by any of the methods permitted under the Legislation, and
- that there is a reasonable expectation that the party being served will receive the documents in that way.

Under section 89 of the *Act*, a landlord may serve a tenant with an Application for Dispute Resolution, and related evidence, by either personally handing it to the tenant or by sending it by registered mail; however, the landlord contends that the tenant has not provided any forwarding address, and therefore, is unable to serve the evidence to the tenant in a manner permitted under section 89 of the *Act*.

I find that the landlord has not provided any evidence or supporting documents in support of their Application for Substituted Service. The landlord has not provided any evidence to demonstrate whether they undertook an effort to contact the tenant to obtain a forwarding address that would permit the landlord to serve evidence in a manner permitted under the *Act*. The landlord has not demonstrated whether it contacted the tenant using means such as telephone, text messaging, or email in an effort to communicate with the tenant with respect to the issue of a forwarding address. Therefore, I find that the landlord has not demonstrated that it is unable to serve the tenant by any of the methods permitted under the *Act*, as outlined in Residential Tenancy Branch Policy Guideline 12.

I find the information that the landlord has provided does not conclusively demonstrate that the email address that the landlord would like to send the evidence to is currently active. The landlord has not provided any evidentiary material to demonstrate that the parties to the tenancy had successfully communicated by way of email, such that the landlord and tenant were able to send and receive email messages at the email address to which the landlord wishes to serve evidence to the tenant.

I note that the landlord has indicated in their Application for Substituted Service that the email address to which they wish to serve evidence was used by the tenant when the tenant filed his own Application for Dispute Resolution against the landlord. However, I find that the landlord has not provided a copy of the tenant's Application for Dispute Resolution or any other evidence showing that the tenant has requested this email address to be used for his dispute.

Therefore, based on the foregoing, I find that the landlord has not demonstrated that the tenant would have knowledge of and be able to receive the evidence if sent to the tenant's email address, as indicated on the first page of this decision.

For the above reasons, the landlord's application for substituted service, to serve the tenant the evidence related to a Dispute Resolution hearing, with respect to the file number cited in this decision, by way of email to the email address provided for the tenant, as indicated on the first page of this decision, is dismissed with leave to reapply.

Conclusion

I dismiss the landlord's application for substituted service, 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: November 19, 2018

Residential Tenancy Branch