



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL MNRL-S

Introduction

This hearing dealt with an application by the landlords under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and damage or compensation pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*; and
- Authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The landlords appeared at the hearing and were given the opportunity to make submissions as well as present affirmed testimony and written evidence. The tenants did not appear at the hearing. I kept the teleconference line open from the time the hearing was scheduled for an additional twenty minutes to allow the tenants the opportunity to call. The teleconference system indicated only the landlords and I had called into the hearing. I confirmed the correct participant code for the tenants had been provided.

The landlord was unable to establish the tenants had been served with the Notice of Hearing and the Application for Dispute Resolution.

The way the tenants may be served is set out in Section 89 of the *Act*. The *Act* states:

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].*

The landlords submitted no evidence to support a finding the tenants had been served with the Notice of Hearing and Application for Dispute Resolution pursuant to Section 89.

Therefore, I find the landlords have failed to prove service as required and the application is dismissed with leave to reapply.

Conclusion

As the landlords were unable to establish the tenants had been served with the Application for Dispute Resolution as required by Section 89 of the *Act*, the 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: November 05, 2018

Residential Tenancy Branch