



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT SERVICES INC - OMNI GROUP
INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFT MNDCT**

Introduction

This is an application by the tenant under the Residential Tenancy Act (“the *Act*”), for the following:

- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement, pursuant to section 67;
- Reimbursement of the filing fee pursuant to section 72.

The representative DH appeared for the tenant (“the tenant”). LR appeared as agent for the landlord (“the landlord”).

The landlord acknowledged receipt of the tenant’s Notice of Hearing and Application for Dispute Resolution. The landlord did not raise any issues of service. I find the tenant served the landlord in accordance with section 89 of the *Act*.

Preliminary Issue

The tenant denied receipt of the landlord’s materials. I accordingly requested the landlord to provide information relating to service of the landlord’s materials.

The landlord testified the landlord sent the materials by registered mail to the tenant at the tenant’s address on December 20, 2018. The tenant confirmed the address to which the landlord sent the materials was correct; the tenant gave the address in his Application for Dispute Resolution. The landlord provided a Canada Post tracking number in support of service referenced of the first page of this Decision. The landlord testified that the landlord’s agent LR conducted an online check with Canada Post on the day of the hearing and confirmed the notice of the registered mail was delivered to

the tenant's address on December 24, 2018 and was ready for collection by the tenant on that day. The tenant stated that the address was available to receive mail on all business days and was unable to provide an explanation of why the tenant did not receive the registered mail. The tenant claimed that the landlord's evidentiary materials could not be considered at this hearing as he had not received a copy.

Pursuant to section 90, documents sent by registered mail are considered received on the fifth day after mailing. *Residential Tenancy Policy Guideline # 12 – Service Provisions* states that the fact a party did not collect a document, does not override the deeming provision. The Guideline states an arbitrator may hear evidence from both parties and make a finding of when service took place.

Considering the evidence of the parties, the submission by the landlord of a copy of the registered mail receipt with the tracking number, the failure of the tenant to provide any evidence to rebut the presumption of delivery, and the provisions of the *Act* and Guidelines, I find the landlord has met the burden of proof of establishing the landlord served the tenant with the evidentiary materials on December 25, 2018, 14 days before the hearing. I therefore find the landlord complied with section 89 and Rule 3.14 of the Rules of Procedure.

In conclusion, I find the landlord has complied with the *Act* with respect to service of the landlord's materials and the tenant is deemed served therewith.

Adjournment

The hearing began on January 8, 2019 and was scheduled for one hour; after 68 minutes, only the tenant had made his submissions. Accordingly, the parties agreed the hearing would be adjourned to allow the landlord similar time to make submissions. All parties agreed.

Issue(s) to be Decided

Is the tenant entitled to:

- A monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- Reimbursement of the filing fee pursuant to section 72.

Conclusion

Based on the above:

- **I order** this hearing will be reconvened in accordance with the Notice of Hearing documents attached to this Interim Decision;
- **I order** that this is not an opportunity for either party to amend their existing Applications for Dispute Resolution;
- **I order** that this is not an opportunity for either party to submit an additional Application for Dispute Resolution to be crossed or joined with any of the Applications for Dispute Resolution currently before me; and
- **I order** that this is not an opportunity for either party to submit additional evidence.

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: January 12, 2019

Residential Tenancy Branch