



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two landlords (female and deceased male) did not attend this hearing, which lasted approximately 11 minutes. The two tenants, male tenant (“tenant”) and “female tenant” attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant stated that he served the landlords with the tenants’ application for dispute resolution hearing package by way of registered mail on December 12, 2018, to a PO Box registered mailing address for the female landlord, that he found in a title search. He claimed that the landlords did not provide the tenants with a residential address, a forwarding address or an address where the landlords were carrying on business as landlords. The tenant provided two Canada Post tracking numbers during the hearing. He said that he sent both copies of the application to the same address, despite the fact that the male landlord was deceased and he claimed that he did not contact anyone to find out who was administering the estate of the deceased.

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].*

Residential Tenancy 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**.*

I find that the tenants were unable to show that the address where they sent his application was a residential address or an address where the landlord was carrying on business. It was sent to a PO Box address found in a title search. The title search was not provided for this hearing. No one appeared on behalf of the landlords at this hearing to confirm receipt of the application.

I find that the landlords were not served with the tenants' application as per section 89 of the *Act*. I notified the tenants that their application was dismissed with leave to reapply, except for the filing fee. I informed them that they would be required to file a new application, pay another filing fee and provide proof of service at the next hearing, if they choose to pursue this matter further.

I notified the tenants that they could speak to a lawyer for legal advice, particularly as it relates to the two-year limitation date for this claim and serving the deceased's estate for this claim. I also informed them that they could speak to an information officer for information, not legal advice, regarding the *Act* and the hearing process.

Conclusion

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

The remainder of the tenants' 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: March 04, 2019

Residential Tenancy Branch