



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT MNDCT**

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- A monetary order for compensation pursuant to sections 51 and 67; and
- Authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. to enable the landlord to call into this hearing scheduled for 1:30 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Preliminary Issue - Service of Application for Dispute Resolution

The tenant testified she served the landlord with the application for dispute resolution by registered mail on November 29, 2018. The tracking number for the mailing is recorded on the cover page of this decision. The tenant thinks she sent it to the residential address of the landlord, however she couldn't be sure. The tenant testified the landlord's house was either on the market awaiting a sale or was already sold on the date she mailed the application to the landlord, but she wasn't sure either way. It was sold 'some time' after a previous arbitration that she participated in with the landlord, but she couldn't specify a date.

The tenant then testified that it could have been sent to the landlord's business but she couldn't remember. The tracking receipt supplied by the postal service was incomplete, as the address to where the documents were sent was not filled in.

Section 89 of the *Act* establishes the following Special Rules for certain documents, which include an application for dispute resolution:

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 document]...*

Section 15 of Residential Tenancy Guideline 12 on Service Provisions reads in part as follows:

...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...

Given the tenant's inability to provide an accurate description of where the application for dispute resolution was sent, I am not satisfied the landlord was served with it. I dismiss the tenant's application with leave to reapply.

Conclusion

I dismiss the tenant's application with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Act*, including the deadlines for applying for dispute resolution

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 20, 2019

Residential Tenancy Branch