



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DELTA WEST DEVELOPMENTS
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI, 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 tenant applied for:

- an order regarding a disputed additional rent increase, pursuant to section 55;
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord did not attend this hearing, which lasted approximately 8 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of the Tenant's Application

The tenant testified that the landlord was served with the tenant's application for dispute resolution hearing package by way of registered mail on March 14, 2019. The tenant provided a Canada Post receipt with this application; however, there was no tracking number on the receipt. The tenant said that he did not have the receipt in front of him during the hearing, so he could not confirm the tracking number.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads as follows:

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].*

Residential Tenancy Policy Guideline 12 states the following, in part (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 tenant failed to provide sufficient evidence that the landlord was served with the tenant's application, in accordance with section 89(1) of the *Act*. The tenant failed to provide a Canada Post tracking number to confirm service of the registered mail. The landlord did not attend this hearing to confirm service.

At the hearing, I advised the tenant that I was dismissing his application with leave to reapply, except for the \$100.00 filing fee which is dismissed without leave to reapply.

I notified the tenant that if he wished to pursue this matter further, he would have to file a new application and pay another filing fee. I cautioned him to prove service at the next hearing, as per section 89 of the *Act* and Residential Tenancy Policy Guideline 12.

Conclusion

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

The remainder of the tenant's 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: April 08, 2019

Residential Tenancy Branch