



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CHAPPAROSA SERVICES LTD. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPL, MNR, MNDC, FF

Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy for unpaid rent and a one month Notice to End Tenancy for cause both dated February 9, 2019. It also seeks a monetary award for unpaid rent and, by amendment for a monetary award for extraordinary cleaning of the rental unit.

The respondent tenant did not attend the hearing within fifty minutes after its scheduled start time at 9:30 a.m. on April 15, 2019. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the landlord's representative Ms. H.K. and this arbitrator were the only ones who had called into this teleconference during that period.

Ms H.K. testifies that the tenant vacated the premises in February. She reports that the downstairs tenant contacted her on February 22 to say the tenant was gone and had left him the keys.

She says that the tenant was served with the Notice of Dispute Resolution Hearing by registered mail sent February 25, 2019 to the tenant and this rental unit.

Section 89 of the *Residential Tenancy Act* provides:

(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]*.

(2) An application by a landlord under section 55 *[order of possession for the landlord]*, 56 *[application for order ending tenancy early]* or 56.1 *[order of possession: tenancy frustrated]* must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place **at the address at which the tenant resides**;
- (e) as ordered by the director under section 71 (1) *[director's orders: delivery and service of documents]*.

(emphasis added)

It is apparent that when the landlord attempted to serve the tenant by registered mail to the rental unit, the tenant was no longer residing there.

The landlord has failed to prove the tenant has been served in accordance with law and so this application cannot proceed in the tenant's absence. The landlord's claim must be dismissed, with leave to re-apply.

This decision was rendered orally at hearing and 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 16, 2019

Residential Tenancy Branch