



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FFL MNDL-S

Introduction

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

- a monetary Order for damages and loss pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing which lasted approximately 10 minutes. The landlord was represented by their agent (the "landlord") who appeared and was given a full opportunity to be heard, to present sworn testimony, to make submissions and call witnesses.

Preliminary Analysis- Service of Application

The landlord testified that they sent the application for dispute resolution and evidence to each of the named respondents by registered mail sent on February 20, 2019. The landlord explained that the tenants abandoned the rental suite and did not provide a forwarding address.

The landlord testified that after the tenants had vacated the rental suite the landlord tracked them down on a social networking site, engaged in conversation with one of the respondents, and found a local address where they believe the tenants are currently residing. The landlord said that they were never told the forwarding address by any of the tenants but believe that the address they have tracked them to is their current place of residence. The landlord explained that they determined the suite numbers of the

respondents by observing which units appear to be occupied and the comings and goings of people in that building.

Section 89(1) of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution for a monetary award:

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]...*

While the landlord has clearly taken some steps to determine the present whereabouts of the respondents I am not satisfied with the evidence that the tenants reside at the service address provided by the landlord. I find that there is insufficient evidence to show that the tenants were served in accordance with the *Act* by registered mail sent to those addresses. I find that the landlord's testimony to be insufficient to demonstrate that the tenants were served in accordance with the *Act* or at all. In the absence of the tenants at the hearing I find that I am not satisfied with the landlord's submission that the addresses the landlord has discovered are the addresses at which the tenants reside and may be served.

As I am not satisfied that the tenants have been served in accordance with the *Act*, I dismiss the landlord's application.

Conclusion

The landlord'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: June 3, 2019

Residential Tenancy Branch