



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL MNDCL MNDL**

Introduction

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

- Authorization to recover the filing fees from the tenant pursuant to section 72;
- A monetary order for damages or compensation pursuant to section 67; and
- A monetary order for damage to the rental unit pursuant to section 67.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:45 P.M. to enable the tenant to call into this teleconference 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 landlord JP ("landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that she served the tenant with the application for dispute resolution package by sending it via registered mail on February 28, 2019. The tracking number for the mailing is noted on the cover page of this decision. The landlord testified that she sent the package to the tenant's place of work as she did not know the tenant's residential address. Communication between the parties usually took place by text message and email.

Preliminary Issue

An application for dispute resolution is a document that is governed by section 89 of the *Act*. (reproduced below).

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*].

Rule 3.5 of the Residential Tenancy Branch Rules of Procedure say the applicant must be prepared to the satisfaction of the arbitrator that the respondent was served with the Notice of Dispute Resolution Proceedings Package and all evidence as required by the *Act*.

In this case, the named tenant was not personally served, nor was she served by registered mail to the address at which she resides. The landlord has not served the application for dispute resolution proceedings in accordance with 89(1)(a) or (c). The landlord has not provided any evidence to show the tenant is employed at the address where the application for dispute resolution was sent. In light of the facts provided, I am not satisfied the landlord has complied with section 89 of the *Act* and given the tenant proper notice of the dispute. I dismiss the landlord's application with leave to reapply.

Conclusion

The landlord's application is dismissed with leave to reapply. Leave to reapply does not extend any deadlines established pursuant to the *Residential Tenancy Act* or the *Limitation Act*.

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 11, 2019

Residential Tenancy Branch