



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNL-4M FFT**

Introduction

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

- An order to cancel a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit ("Notice") pursuant to section 49 and
- Authorization to recover the filing fees from the landlord pursuant to section 72.

The tenant attended the hearing, the landlord did not. The tenant testified he sent the landlord a copy of his Application for Dispute Resolution by registered mail on July 4, 2019 however he could not locate the tracking number to verify the mailing for me. Based on the tenant's testimony and the lack of any documentary evidence provided by the landlord, I am not satisfied the landlord was served with the tenant's Application for Dispute Resolution.

Preliminary Issue

The tenant testified that the landlord has cancelled the 4 Month Notice and the tenant no longer wishes to pursue his Application for Dispute Resolution. No documents notifying the 4 Month Notice was cancelled was provided as evidence.

Analysis

Residential Tenancy Branch Rules of Procedure 3.5 indicates:

At the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served with the Notice of Dispute Resolution Proceeding Package and all evidence as required by the *Act* and these Rules of Procedure.

Section 89 of the *Act* reads:

(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*].

Policy Guideline PG-12 [Service Provisions] provides that 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 that the tenant was unable to provide a Canada Post tracking number or Registered mail receipt, I am not satisfied the landlord has been served. Likewise, as the tenant testified the landlord has cancelled the 4 Month Notice, the tenant's application does not disclose a dispute that may be determined under Part 5 of the *Act*.

Consequently, I dismiss the tenant's application without leave to reapply pursuant to section 62(4) of the *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: August 19, 2019

Residential Tenancy Branch