



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL, FFL

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on May 31, 2019 (the "Application"). The Landlords applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent ; and
- an order granting recovery of the filing fee.

This matter was set for hearing by telephone conference call at 1:30 P.M. (Pacific Time) on September 12, 2019. Only the Landlord appeared at the hearing and provided affirmed testimony. No one called in for the Tenant. The conference call line remained open and was monitored for 14 minutes before the call ended.

The Landlord testified that she did not serve the Application or documentary evidence to the Tenant as she did not know the Tenant's forwarding address.

Preliminary Matters

Section 89 of the *Act* establishes the following Special rules for certain documents, which include an application for dispute resolution:

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]...

The Landlords have not served the Tenant in a manner required by section 89(1) of the *Act*. The Landlord testified that the Tenant was not served with the Landlord's Application for dispute resolution or documentary evidence.

According to 60 of the *Act*, if the *Act* does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned. During the hearing, the Landlord stated that the tenancy ended on August 31, 2017. As such, I find that the Landlord is out of time to reapply.

In light of the above, I dismiss the Landlords' Application without leave to reapply. As the Landlords were not successful with the Application, I find that they are not entitled to the return of the filing fee.

Conclusion

The Landlords did not serve the Tenant in accordance with the *Act*. The Landlords are now out of time to reapply. I dismiss the Landlords' Application without 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: September 13, 2019

Residential Tenancy Branch