



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      AAT CNR FFT LRE MNSD OLC PSF RP MNDCT

### Introduction

This hearing was convened by way of conference call concerning an amended application made by the tenants seeking the following relief:

- an order that the landlords provide access to the rental unit for the tenants or the tenants guests;
- an order cancelling a notice to end the tenancy for unpaid rent or utilities;
- an order limiting or setting conditions on the landlords' right to enter the rental unit;
- a monetary order for return of all or part of the pet damage deposit or security deposit;
- an order that the landlords comply with the *Act*, regulation or tenancy agreement;
- an order that the landlords provide services or facilities required by the tenancy agreement or the law;
- an order that the landlords make repairs to the rental unit or property;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and
- to recover the filing fee from the landlords for the cost of the application.

Both tenants and both landlords attended the hearing, during which the tenants withdrew all claims with the exception of the monetary claims for return of the pet damage deposit and/or security deposit and compensation for damage or loss.

The landlords submitted that the tenants did not serve the landlords with notice of this hearing and the landlords learned of the hearing and the passcodes to access the conference call from the Residential Tenancy Branch through Service BC. One of the tenants submitted that 2 Hearing Packages were delivered in person to one of the landlords personally on August 17, 2019.

The tenants submitted that they did not receive any of the landlords' evidentiary material. One of the landlords submitted that the evidence was left at the door of the forwarding address provided by the tenants.

The *Residential Tenancy Act* specifies how documents are to be served:

### **How to give or serve documents generally**

**88** All documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served 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 ordinary mail or 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 ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];

(j) by any other means of service prescribed in the regulations.

### **Special rules for certain documents**

**89** (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*].

Also, the Rules of Procedure specify that the applicants must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of the Application for Dispute Resolution, the notice of proceeding letter provided by the Residential Tenancy Branch, the dispute resolution proceeding information package also provided by the Residential Tenancy Branch, and evidence. The Rules also specify that at the hearing, the applicant must be prepared to demonstrate to the satisfaction of the arbitrator that each respondent was served. In this case, the tenants submit that the landlords were served with that initial Hearing Package by personally handing both packages to one landlord on August 17, 2019. The landlords disagree that anything was served on August 17, 2019.

With respect to the landlords' evidentiary material, the Rules state that at the hearing, the respondent must be prepared to demonstrate to the satisfaction of the arbitrator that each applicant was served with all evidence. The landlords submitted that the evidence was left at the door of the tenants' residence at the forwarding address provided by the tenants. The tenants disagree that anything was left at the door.

In the circumstances, I am not satisfied that either party has complied with the Rules of Procedure with respect to service or delivery of documents or evidence.

Therefore, I dismiss the balance of the tenants' application with leave to reapply.

I have made no findings of fact or law with respect to the merits of the tenants' application.

Since the tenants have not been successful with the application, the tenants are not entitled to recovery of the \$100.00 filing fee, and I dismiss that portion of the application.

### Conclusion

For the reasons set out above, the tenants' application for a monetary order for return of all or part of the pet damage deposit or security deposit is hereby dismissed with leave to reapply.

The tenants' application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement is hereby dismissed with leave to reapply.

The tenants' application for recovery of the \$100.00 filing fee is hereby dismissed 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: October 10, 2019

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Residential Tenancy Branch