



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HAPPYTOWN HOLDINGS and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes

CNR

Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("10 Day Notice"), pursuant to section 46.

The landlord did not attend this hearing, which lasted approximately 11 minutes. The two tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Preliminary Issue – Service of Tenants' Application

The tenants testified that they served the landlord with the tenants' application for dispute resolution hearing package by way of regular mail and email on September 28, 2019. The tenants confirmed that they did not mail their application by registered mail with a tracking number.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (my emphasis added):

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 documents].*

Residential Tenancy Policy Guideline 12 states the following, in part (my emphasis added):

*Registered mail includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a **named person** is available.*

*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.***

Email and regular mail are not permitted methods of service for the tenants' application for dispute resolution. The landlord did not appear at this hearing to confirm receipt of the tenants' application. Accordingly, I find that the tenants failed to prove service in accordance with section 89(1) of the *Act* and Residential Tenancy Policy Guideline 12 and the landlord was not served with the tenants' application.

At the hearing, I informed the tenants that I was dismissing their application with leave to reapply. I notified them that they would be required to file a new application and pay a new filing fee, if they wished to pursue this matter further. I cautioned the tenants that they would have to prove service at the next hearing. I also cautioned the tenants to act quickly, if they wished to refile an application, as the 10 Day Notice has limitation dates to dispute the notice.

Conclusion

The tenants' 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: December 04, 2019

Residential Tenancy Branch